

# The Special Tribunal for Lebanon

*Local perceptions and legitimacy challenges at  
the start of the trial proceedings*

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Master's Thesis in Peace and Conflict Studies  
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# Abstract

The Special Tribunal for Lebanon (STL) was created by Security Council Resolution 1757 in 2007 in response to the assassination of the former Prime Minister Rafik Hariri and a string of other assassinations that happened in Lebanon between October 1<sup>st</sup> 2004 and December 12<sup>th</sup> 2005. Lebanon has a long history of assassinations and violent conflict followed by impunity. While the creators of the STL drew upon the experience from other international tribunals that had emerged the last two decades, it is difficult to locate the STL in the paradigm of transitional justice because the narrowness of its mandate.

This Master's Thesis investigates local perceptions about the STL and identifies some of the main legitimacy challenges facing the tribunal, as the trial proceedings are about to start. This is done through qualitative interviews with young Lebanese as well as Lebanese public figures in Beirut in February 2012. Main challenges found are perceptions of selective justice and fears of politicization, a general mistrust in domestic and international institutions, perceived irrelevance of the tribunal's work and frustration over the double standards held by the international community, exemplified with the lack of action by the UN towards Israel in the war in 2006. The legitimacy challenges make it difficult to see the creation of the STL as a sincere, international demand for accountability.



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I am grateful and humble for having the opportunity to write this thesis.

Tone Hafnor

Oslo, May 21<sup>st</sup> 2012





## **Note on transliteration**

Rafik is also spelled Rafiq and Rafic. I consequently write Rafik, unless a quotation is used.

## **List of abbreviations**

ICTR – The International Criminal Tribunal for Rwanda

ICTY – The International Criminal Tribunal for the former Yugoslavia

MP – Member of Parliament

SC – The Security Council of the UN

SG – The Secretary General of the UN

STL – The Special Tribunal for Lebanon

TJ – Transitional Justice

UN – United Nations

UNSC – United Nations Security Council

## **Lebanese expressions frequently used by interviewees**

*Haqiqa* – the truth

*Khalas* – stop, end, finish

*Yani* – like, that is to say

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# **1. Introduction and research question**

## **1.1 Background**

Whilst conducting research for this thesis in Lebanon in February 2012, I found that everyone I talked to, without exception, remembered exactly where they were and what they were doing on February 14<sup>th</sup> seven years ago, when they heard the news that Rafik Hariri was dead.

The former Prime Minister was assassinated by a massive explosion targeting his motorcade on February 14<sup>th</sup> 2005, when the convoy was driving from the Parliament in downtown Beirut along the seafront corniche. The powerful blast blew out windows in a far-flung radius, and was heard far across the borders of Beirut. It left a crater at least ten meters wide and two meters deep in the street (STL 2012a). In addition to Hariri, 22 others were killed and 231 persons were injured in the attack.

Rafik Hariri had been serving as Prime Minister most of the post-civil war era in Lebanon, from 1992-98 and 2002-04. He had resigned from his post in October 2004, but was expected to run for the Prime Minister post in the scheduled elections in 2005. Born into a poor Lebanese family, Hariri was a self-made billionaire who had come back from a successful business life in Saudi Arabia to a war-torn Lebanon and oversaw its reconstruction as Prime Minister.

Even though not all Lebanese agreed on his politics or shared the same enthusiasm about Hariri, the magnitude of the blast and the shock over his death sparked a series of protests and huge public display of fury and remorse. People from all sectors of Beirut felt compelled to take to the streets and show their anger and grief (Haugbolle 2010:206). The anger was directed at the Syrian regime. Syrian military troops had been present in Lebanon since 1976, and with Syrian control over the top security and intelligence officials and an ongoing

meddling in Lebanese political affairs, it was widely believed that the Syrians would have planned or at least known about the plot to assassinate Hariri.

The Syrian regime denied all accusations, but weeks of peaceful protest against the Syrian regime followed. The demonstrations were the largest spontaneous popular demonstrations in the history of modern Lebanon and that the Arab world so far had seen (Safa 2006:22,31).

The demonstrators demanded a complete withdrawal of Syrian troops and intelligence services in Lebanon, the resignation of senior state-security officials, the appointment of a neutral government with the task of preparing parliamentary elections for the elections in May 2005, and an international investigation into the murder of Hariri (Knio 2005:225, Safa 2006:33). Political parties that used to be enemies now formed an untied opposition around these demands and their “anti-Syrian” stance.

Not all political parties supported the anti-Syrian stance. On March 8<sup>th</sup> Hezbollah and the Shiite political party Amal staged a huge demonstration in support of Syria. The demonstration was the biggest rally so far with around half a million people present in downtown Beirut (Safa 2006:33). The week after, and exactly a month after the Hariri assassination, the opposition carried out the plans to display the largest public demonstration the Middle East had ever seen (Safa 2006:33). On March 14<sup>th</sup>, more than an estimated one million people took to the streets in an “anti-Syria” demonstration. These two massive demonstrations gave later the names to the two current rival political coalitions in Lebanon, *March 8*, (“pro-Syrian”) and *March 14* (“anti-Syrian”).

On 26<sup>th</sup> of April, Syria completed its military withdrawal from Lebanon, ending a near 30 year long presence. How much that remained of the Syrian intelligence apparatus is not known (Blanford 2006:164-165).

Already the day after the assassination of Hariri, the United Nations Security Council decided to send a fact-finding mission to Lebanon to explore the causes,

circumstances and consequences of the attack. At the recommendations of the fact-finding mission, the UN International Independent Investigation Commission (UNIIC) was established by UN Security Council Resolution 1595 in April 2005, to investigate the assassination of Hariri.

Several bombs and assassinations followed that of Hariri throughout 2005, targeting politicians and public figures that were outspoken critical of the Syrian regime. The day after the killing of editor Gebran Tueini on December 12<sup>th</sup> 2005, the Lebanese government requested the UN to create “a tribunal of international character” and also to extend the mandate of the UNIIC to provide technical assistance to the Lebanese authorities with regard to their investigations on the string of attacks and assassinations.

Through Security Council resolutions 1644 and 1664, the mandate of the UNIIC was extended to provide assistance with the investigations of attacks perpetrated in Lebanon since October 1<sup>st</sup> 2004, and paved the way for an agreement to be negotiated between the Secretary General of the United Nations and the Lebanese Government regarding the establishment of a tribunal. The agreement between UN and Lebanon failed however to be ratified by the Lebanese government because of political stalemate. By resorting to Chapter VII of the UN Charter, the Security Council brought the agreement into force through resolution 1757, and the Special Tribunal for Lebanon (STL) was established on June 10<sup>th</sup> 2007.

The primary mandate of the STL is to hold trials for the people accused of carrying out the attack of February 14<sup>th</sup> 2005. The tribunal also holds jurisdiction over other attacks in Lebanon between October 1<sup>st</sup> 2004 and December 12<sup>th</sup> 2005 if it is proven that they are connected to the events of February 14<sup>th</sup>. This “connection” can include criminal intent (motive), the purpose behind the attacks, the nature of victims targeted, pattern of the attacks (modus operandi) and the perpetrators (UN 2007a, Article 1).

## **1.2 The challenge**

At the time of writing, the questions of who was behind Hariri's assassination and their exact motives still remain unsolved. The STL officially opened on March 1<sup>st</sup> 2009 in the outskirts of The Hague in the Netherlands, but the trial proceedings are yet to begin.

In 2010, Hezbollah claimed to hold evidence indicating that Israel could be behind the killing of Hariri. The secretary-general of Hezbollah was nevertheless not interested in cooperating with the STL or handing the evidence over to the tribunal (Barada 2010). In 2011 the first indictments of the tribunal became public, accusing four Lebanese men, all Hezbollah members, for the assassination of Hariri. Lebanon has however not transferred these suspects to The Hague.

The Lebanese political scene is divided into two camps over the STL. The March 8 alliance denounce the STL and accuse it for being created by a political agenda in order to accuse Syria and bring down Hezbollah's arms. Members of March 14 still suspect Syria, now possibly with the help of Hezbollah, to be involved in the assassinations, and believe the court will be able to rule objectively. Members of March 14 consider the tribunal as vital to end the impunity for the many political assassinations Lebanon have seen (Jamal Jarah 2012 [interview]).

Political assassinations are not new in Lebanon. The country has a dark record of unsolved assassinations and assassination attempts, which did not halt when the Lebanese Civil War (1975-90) ended. According to Lindsey Raub "After more than thirty years of political assassinations in Lebanon going unpunished, many hope that the operation of the Special Tribunal for Lebanon (STL) will mark the end to that era of unaccountability" (Raub 2009:1037-1038).

Much has changed in the way the international community deals with grave human rights abuses after the end of the Cold War. During the last two decades, scholars and practitioners have increased their attention on questions on how countries and societies can come to terms with a history of violence and war,



oppression and human rights violations (Fisher 2011:406). Following the creation of the International Criminal Tribunal for former Yugoslavia (ICTY) in 1993, many international and hybrid tribunals came into existence around the turn of the millennium to deal with the aftermath of violence and oppression from various conflicts. *Transitional justice* is not only an academic subject, it is also an active domain of policy practised by the United Nations and other organisations and financial institutions (Fisher 2011:406, Sriram 2009:116).

However, the establishment of the STL raises many questions. Enforced on Lebanon by Security Council Resolution 1757, it is puzzling how the Security Council established a tribunal for practically one murder investigation, when there was no international demand of accountability for the atrocities during the civil war. Unlike other conflicts that ended later during the 1990's, there was no "truth and reconciliation" or transitional justice processes after fighting ceased in Lebanon. Perpetrators in the conflict, the militia leaders, were granted general amnesty in 1991, which enabled a swift transition from warlord to politician. Given this historical context, the legitimacy of the STL is questioned by many Lebanese, as many oppose the establishment of "this court for the murder of one man, whereas the Lebanese Civil War (1975 – 1989) was concluded by widespread impunity with the amnesty of 1991, in spite of 145,000 dead, 180,00 wounded, and 17,000 missing" (Hazan 2010a p. 168).

Upon the establishment of the tribunal in June 2007, Marieke Wierda, Habib Nassar and Lynn Maalouf (2007) showed how Lebanon's historical context with a selective impunity, the highly selective nature of the jurisdiction of the STL and the fears that the STL will be used politically, could pose grave challenges to the legitimacy of the STL. By using this as a starting point, I intend to investigate the legitimacy challenges and local perceptions of the tribunal further, five years after its establishment, as the trial proceedings are about to begin.

### 1.3 Research question and research design

This leads me to the following research question:

*What are the local perceptions and the main legitimacy challenges facing the Special Tribunal for Lebanon at the start of the trial proceedings?*

The term legitimate, and its derivative *legitimacy*, has a variety of meanings connected to it. In addition to mean “conforming to the law or rules”, legitimacy can also be defined as being able to be defended with logic or justification (New Oxford American Dictionary). When discussing the legitimacy challenges for the STL, it is this latter definition that will be applied.

In order to answer the research question I conducted qualitative interviews in Lebanon in February 2012. The interviews focused on the perceptions held among young Lebanese, in addition to interviews with some public figures, holding the views of either being staunchly pro the tribunal, or denouncing it. The viewpoints will be analysed and identified as different challenges facing the tribunal. In addition, secondary sources will be used in order to place the Special Tribunal for Lebanon in an historical context, both in relation to Lebanon’s long history with impunity and within the framework from which the STL is derived; the development of international courts and tribunals after the end of the Cold War.

This is not a master thesis in international law. Rather, it is an examination of how members of the Lebanese society perceive the tribunal, and by this the thesis outlines some challenges that might face an international tribunal imposed on a society. This master thesis is a multidisciplinary academic paper, as it applies various approaches to get a holistic impression of the perceptions of the STL.

My own academic background is multidisciplinary Middle Eastern Area studies.

## **1.4 Composition of thesis**

Chapter 2, historical context, shows how Lebanon has a long history of assassinations and violent conflict followed by impunity. The chapter briefly examines the aftermath of the civil war, and goes more into details about the events in Lebanon in the spring of 2005, which lead to the request of the Lebanese government to establish a tribunal of 'international character'. The developments since the Hariri-assassination in 2005 until present are also presented.

Chapter 3 outlines the methods applied in this research, especially concerning sampling and conducting interviews, as well as ethical considerations. Sources used in the thesis are also presented. Chapter 4 presents a theoretical framework of transitional justice and show how the development of international tribunals made the creation of the STL possible. It also points to the fact that the STL does not fall into the traditional paradigm of transitional justice. Chapter 5 goes more into detail about the establishment of the STL, its features and how it will work.

The findings from the interviews are presented and analysed in chapter 6, in addition to other sources. This chapter aims at answering the research question. The findings show that the local perceptions of the tribunal are deeply divided. Many look at the tribunal with much scepticism. The tribunal's narrow mandate is a legitimacy challenge because it conveys perceptions of selective justice and suspicions that the tribunal is politicized. There are also questions about the double standards held by the international community and the lukewarm commitment stop impunity and claim accountability in Lebanon. The conclusion (chapter 7) suggests that in light of these challenges, the STL fails to act as a credible signal of international demands for accountability.



## 2. Historical context

The country we today call Lebanon was a part of the Ottoman Empire until the end of the First World War. The Arab provinces of the defeated empire were divided between France and Britain, regarded as mandated territory with the provision that they must be prepared as soon as possible for independence (Salibi 1988:19). Previously organised in districts and communities based on religion, *millets*, France detached Lebanon from the area of greater Syria to form a separate country. This was meant to give pre-eminence to the Maronite Christians in the area (Saadeh 2007:13).

### 2.1 The Lebanese political system

The Lebanese population consists of an unique blend of various religious communities, Christians (mainly Maronite, Greek Catholic and Greek Orthodox, Armenians), Muslims (Sunnite, Shiite) and Druze. There is also a large number of Palestinians who came as refugees in 1948<sup>1</sup>. Officially, there are 18 different religious sects. The sects play a major part in the administration of the country. Each sect runs its own affairs regarding birth, death, marriage, divorce and inheritance, as there is no civil state authority to control these personal affairs in Lebanon (Saadeh 2007:9).

In the Franco-Lebanese treaty of 1936 it was decided that all religious sects in Lebanon should be “fairly represented” in the government and administration (Saadeh 2007:13). Each of the 18 officially recognized sects has its number of designated seats in the Parliament. This type of distribution of power is called consociationalism. A census in 1932 showed the Maronites to be numerically superior, followed by the Sunnies and the Shiites. On the basis of this census the numbers of designated seats were given. No official census has been made ever since. Upon the independence from France in 1943 a verbal agreement about the

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<sup>1</sup> The Palestinians are not granted Lebanese citizenship and still have status as refugees.

composition of the political system in independent Lebanon was made, called The National Pact. Agreed upon by Sunni and Maronite leaders, the pact holds an understanding about which sects should hold what positions in the government and army. Since 1943 the composition of the political system has been that the president of the republic is Maronite Christian, the Prime Minister is Sunni and the Speaker of Parliament has to be Shiite. These so-called “three Presidencies” of the Republic, Cabinet and the Parliament have not changed since 1943 and reflect the ranking of the sects in a hierarchical fashion (Saadeh 2007:18). The National Pact was meant to be consociational, ensuring that no single sect would be able to dominate. However, the pact has also made it impossible for the system to adjust as demographic and social realities shift (Safa 2006:25).

## **2.2 The aftermath of the civil war**

The Lebanese Civil War (1975-1990) was one of the bloodiest conflicts in the modern Middle East, with atrocities and massacres committed by all sides to the conflict (Knudsen and Yassin 2007:4). The civil war more than halved the GDP, caused massive human suffering, including more than 150 000 deaths, displaced 800 000 people and speeded up the already large emigration from the country (ibid:4). Between 17 000 and 18 000 disappeared, and are still missing (Barak 2007:52). The war was also complicated by outside forces intervening Lebanon. The Palestinian Liberation Organization (PLO) moved its headquarters to Beirut in order to fight Israel from Lebanon in 1970 after being expelled from Jordan. The Syrian army invaded Lebanon in 1976, and Israeli forces invaded twice, in 1978 and in 1982. Israel kept its military troops in the southern part of the country until 2000.

The civil war came to an end with the Taef-agreement<sup>2</sup> in 1989, but left a number of political problems unsolved<sup>3</sup> (Haugbolle 2005:192). While levelling the share of Christian and Muslim seats in the parliament from a ratio of 6:5 to 5:5, and increasing the number of seats in the parliament, the consociational system was left intact. The Taef-accord kept some members of the old elites in power, but also made it possible for survived warlords and militia chiefs to transform themselves into politicians (Safa 2006:27-28). In this way, former militias transformed into political parties with the same warlords as leaders.

On August 26<sup>th</sup> 1991, The Lebanese Parliament, which included several former militia officials who were appointed to fill its vacant seats<sup>4</sup>, approved a general amnesty for all war-related crimes (Barak 2007:53). The amnesty is granting all leaders and militia members immunity from war crimes. The law applies to crimes committed before March 1991, including “crimes against humanity and those which seriously infringe human dignity” (Haugbolle 2005:193). Following the general amnesty, about twenty-five militias organizing approximately 50 000 fighters disarmed (Knudsen and Yassin 2007:1). The Shiite militia of Hezbollah is an important exception. Because Israel still had troops in South Lebanon, the militia did not disarm, maintaining its function as a resistance group against Israel.

The amnesty law enjoyed widespread political support, but prevented Lebanon from confronting its wartime record and bringing those responsible to trial (Knudsen and Yassin 2007:6). During the transition from war to peace “there was no post-war reconciliation process, truth commissions, public apologies or other forms of public conciliation processes” (Knudsen 2005:15). There was neither any criminal investigation of the human rights violations committed during the

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<sup>2</sup> Name given from the city Taef in Saudi-Arabia where the peace negotiations were held. Fighting continued until 1990, when the last militia, lead by Michel Aoun, was defeated by Syrian forces and Aoun fled to France in exile.

<sup>3</sup> “Despite slight amendments to the constitution, generally in favour of the Muslim population, no one party managed to impose its will on another, and the dreams of a new order, which had fueled much of the conflict, either in the form of Marxist, Socialist, Islamic, or Christian nationalist ideologies, had to be put aside” (Haugbolle 2005:192).

<sup>4</sup> There were no elections during the war, and many former MP-s had died during the war.

Lebanese Civil War, nor were any of those responsible brought to trial (Knudsen and Yassin 2007:6). Those responsible for the war crimes, massacres and theft became responsible for rebuilding the country. Naturally, these people had no desire to shed light on the past (Haugbolle 2005:192). Such an initiative of a reconciliation process was neither in the interest of Syria “an authoritarian state without political transparency whose main interest was to keep its Lebanese allies in power” (Haugbolle 2010:71).

### **2.3 Syrian hegemony in the post-civil war era**

The sponsors of the Taef-agreement, particularly the United States, Saudi Arabia, Algeria and Morocco, conceded to Syria the responsibility of supervising the implementation of the Taef Accord, Lebanon’s new constitution (Iskandar 2006:77). With the approval of the United States, the Syrian President Hafez al-Assad gained a free hand in Lebanon in return for Syria’s symbolic participation in the anti-Saddam coalition during the First Gulf War (Safa 2006:27).

According to the Taef-agreement, Syrian troops, numbering about 40 000 in 1989 (Knudsen 2005:11), should have withdrawn their troops to the Beqaa valley within two years and eventually pull out. This did not happen. Syria’s military presence remained, and its role as overseer and protector of Lebanon was institutionalised through a number of agreements. Syria also strengthened its influence in the Lebanese society in the 1990s by building close ties with the Lebanese Army, the Syrian and Lebanese *mukhabirat*<sup>5</sup> and with Hezbollah (Haugbolle 2010:67-68).

The Syrian presence kept Lebanon relatively calm and hindered the conflict to ignite again in the post-civil war environment. However, “the *Pax Syriana* came at a very high price for Lebanon and the country became a Syrian client state and was economically, politically and militarily subservient to its larger neighbour”

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<sup>5</sup> Intelligence apparatus



(Knudsen 2005:20). In order to achieve stability, Syria, headed by president Hafez al-Assad since 1971, employed a classic divide and rule strategy (Zahar 2009:294). To him, stability in Lebanon was more important than strengthening the Lebanese democracy. The elections in post-war Lebanon have all been gerrymandered to the favour of Syria (Knudsen 2005:8). In each of the post-war elections 1992-2002, a new electoral law has been used. The purpose of the electoral manipulation was to ensure that candidates favoured by Syria were elected. The tampering includes vote rigging, voter intimidation, buying of votes and control of media in favour of pro-Syrian candidates (Knudsen 2005:9). "The Syrians kept their Lebanese allies loyal by encouraging continued mafia-like behaviour in running state affairs" (Safa 2006:28).

#### **2.4 No accountability for the war**

As mentioned, the Syrian hegemony prevented Lebanon from confronting its wartime record. "The main reason why national (and grassroots) reconciliation was never on the agenda was due to the Syrians which did not want the Lebanese fractions to reconcile, seeking to manipulate them for political ends in its quest for control over Lebanon" (Knudsen 2005:15).

According to Haugbolle (2010:71) many ordinary Lebanese understood that an open discussion about the civil war would mean questioning the entire post-war regime. Even though the regime was under Syrian control, it was engaged in reconstruction and committed to coexistence. "Worn out by conflict, they were more likely to give the promise of stability a chance. As a result of all these facts, political memory was done away with, resulting in what critics called a 'state-sponsored amnesia'" (ibid:71).

"For a long time, legal, political and sociopsychological factors combined to make the civil war taboo" (Haugbolle 2010:69). If spoken about, the war is often referred to as a "a war of others", *guerre des autres*, indicating that it was regional

and international powers that fought on Lebanese soil and made the Lebanese fight each other (Haugbolle 2005:198). *The guerre des autres*-thesis was formulated in the last part of the war and reproduced in the post-war period. The idiom became popular due to the need to externalize a common sense of guilt or shame over the war (Haugbolle 2010:14).

“Everyone knew that the war, at least in part, was a sectarian war with an unjust outcome, in the sense that unconvinced war criminals still walked the streets of Beirut as well as the corridors of parliament. But everyone also knew that this unordered order had emerged at the basis for peace, reconstruction and continued national unity” (Haugbolle 2010:72). Some examples of former warlords in the corridors of parliament are Nabih Berri, which has been he speaker of Parliament since 1990. Berri was the leader of the Shiite militia and political party Amal. Elie Hobeiqa was leader of the Christian Militia Lebanese Forces from 1985-86, and has been a minister several times since 1990. Walid Jumblatt was leader of the Druze militia and the Popular Socialist Party since 1977 (Haugbolle 2005:192). Also the leader of the Lebanese Forces and warlord Samir Geagea, and Michel Aoun, leader of Free Patriotic Movement, reentered the political scene at a later point.

The amnesty law worked on selective basis, “rewarding those who were favoured by Syria and punishing those who fell out with the regime” (Knudsen and Yassin 2007: 6). This is evident with the treatment of the leader of Lebanese Forces, Samir Geagea. After he fell out with the Syrian regime, Geagea was the only warlord-turned-politician to get convicted for war crimes. From 1994 to 2005, he was held in an isolated underground cell serving a lifetime sentence. After the Syrian withdrawal, the Parliament approved an amnesty and he was released from prison the summer 2005 (BBC 2005), resuming his role as the leader of Lebanese Forces.

In addition to Geagea, only two other war-time leaders have been indicted: Michel Aoun and Etienne Sacre, leader of “Guardian of the Cedars”. Aoun, charged for

mutiny and embezzlement of public funds (Knudsen 2005:13), remained in exile in France until 2005. “It is telling that both Aoun and Sacre, the most vocal critics of the Syrian occupation, have been indicted but not those favouring Syrian suzerainty of Lebanon” (ibid:13). After the withdrawal of Syrian troops in 2005, Michel Aoun assumed his political activities in Lebanon as the leader of Free Patriotic Movement.

## **2.5 Hezbollah**

Another important actor on the current political scene in Lebanon is Hezbollah. Literally, its name means “Party of God”, and it was created as a militia in Lebanon in the 1980s with Iranian and Syrian training to target Israeli occupying troops (Safa 2006:28). Unlike the other militias, Hezbollah did not disarm when the civil war ended, due to Israeli forces still being present in Southern Lebanon. During the 1990’s Hezbollah came to the conclusion that it had to adopt to Lebanon’s pluralistic reality. “Party leaders denied any ambition to impose an Iranian-style Islamic state, a central component of Hizballah’s February 1985 program” (Harris 2006:7). Hezbollah entered the elections in 1992 under leadership of the newly appointed Sayeed Hassan Nasrallah (Knudsen 2010:10).

Hezbollah was largely responsible for the pullout of Israeli military forces in South-Lebanon in 2000. Israeli troops had been present in South Lebanon since 1982 and this withdrawal boosted the popularity of the movement. In the elections in 2009, Hezbollah got 14 seats in the parliament. Hezbollah enjoys huge popularity, especially in the Shiite community. In addition to have significant military capacity, Hezbollah is now acting as a mainstream political movement with an impressive network of schools, clinics and charity (Safa 2006:28). Even though Israel withdrew from Lebanon in 2000, Hezbollah refuse to disarm because it sees its role as protecting Lebanon from “Israeli aggression”, and because it considers Israel as still occupying Lebanon on the disputed territory of the Sheeba Farms, a boarder-area occupied by Israel which Hezbollah

claim is Lebanese. The UN officially regards the area as Syrian.

## **2.6 Rafik Hariri and Syria**

It was in this Syrian influenced, post-civil war atmosphere that Rafik Hariri started his political career. Hariri had resided in Saudi Arabia during the war, where he became a successful businessman and a billionaire. The first elected post-war government was headed by Hariri as Prime Minister. Unlike many of the Lebanese politicians, he did not have a war-tainted record. This can explain some of his popularity. In Robert Fisk's words, "[Hariri] had been 'Mr. Lebanon', who had rebuilt Beirut, the symbol of its future economy, the man who had turned a city in ruins into a city of light, of fine new restaurants and shops and pedestrian malls" (Fisk, quoted in Iskandar 2006:12). However, all shared the same enthusiasm for Hariri. He was criticised for the spending of public funds and putting the country in debt at the same time as his company Solidere earned a fortune by being in charge of the reconstruction of Beirut.

Hariri headed governments from 1992-1998, and from 2000 until he resigned in 2004. His retirement was understood to be temporarily, as he prepared a comeback in the elections scheduled for 2005.

Syria tightened its grip over Lebanon under president Émile Lahoud's first term as president from 1998-2004. When Lahoud's term was about to expire, Syria pressured the Lebanese Parliament to extend his term, which required a constitutional amendment. Syria's meddling in Lebanese affairs was no longer overlooked by the United States. The political climate had changed since 1989. In 2003 Syria, now headed by Hafez's son Bashar al-Assad, refused to support George W. Bush's invasion in Iraq. Syria was now considered "a state that sponsors terrorism", accused of obtaining chemical or biological weapons (BBC 2002). In 2003, the US Congress passed a law aiming at limiting Syria's hegemony over Lebanon (Knudsen 2010:12).

In the summer of 2004, the Security Council passed resolution 1559, introduced by the United States and France (UN2004b). The resolution declared the security councils “support for free and fair electoral process in Lebanon’s upcoming presidential election conducted according to Lebanese constitutional rules devised without foreign interference or influence” (UN 2004b, point 5). The resolution also called upon all remaining foreign forces to withdraw from Lebanon and the disarmament of all Lebanese and non-Lebanese militias. This targeted the withdrawal of Syrian military presence and the disarmament of Hezbollah.

The Syrian leadership blamed Rafik Hariri for resolution 1559, believing he was a key force behind it (Blanford 2006:104). Hariri had good international contacts<sup>6</sup>, and a ‘larger-than-life status’ and a genuine interest in rebuilding and unifying Lebanon, something that made him a source of concern for Syria’s rulers (Safa 2006:28). Unlike Geagea and Aoun, Hariri had carefully avoided direct criticism of Syria’s’ role in Lebanon (New York Times 2011). Initially, Hariri refused extending Lahoud’s mandate, but eventually he voted for (Blanford 2006:101,107). His resignation from the Prime Ministerial post in October 2004 was seen as a silent protest against the Syrian interference and a signal of a break with the Syrian regime (New York Times 2011).

## **2.7 The assassination and popular demonstrations**

The public outrage over the death of Rafik Hariri became evident already hours after his death, when a large crowd gathered in front of the hospital to where he was taken. Thousands of mourners attended his funeral. The following weeks, Martyrs Square in Downtown Beirut was occupied with demonstrators. The government tried to prohibit the demonstrations, in order to “protect security

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<sup>6</sup> “Hariri’s international outlook was developed on the basis of a strong friendship with President Chirac of France, meaningful representation, activity and investments in the United States, close relations with the World Bank’s president, and a network of personal ties with leaders as diverse as the Brazilian president, the president of Malaysia, the president of Iran as well as the Turkish prime minister” (Iskandar 2006:173).

and order”, but the demonstrations went on in large scale (Schiller and Zahar 2006:74). The rallies were of a peaceful nature. No or little violence between demonstrators and security forces was reported.

Even though Syrian president Assad called Hariri’s assassination a “despicable crime” and said that Syria wanted the perpetrators caught as much as Lebanon, (Schiller and Zahar 2006:100) the protesters went far in blaming Syria for the assassination, and the Lebanese government for not hindering it. Under pressure to get quickly to the bottom of the crime, the Lebanese government produced several stories about the assassination, including one about Islamic suicide bombers that turned out to be a total fabrication (Safa 2006:30). The government’s inability to provide serious and satisfactory explanations increased its vulnerability (ibid:33). The pro-Syrian Prime Minister Omar Karami announced his resignation on 28<sup>th</sup> of February (Knio 2008:446), to the joy and disbelief of thousands of demonstrators (Schiller and Zahar 2006:91). A rare display of national unity was shown during the demonstrations, where Lebanese from all confessions gathered. Gebran Tueini, editor of the Lebanese newspaper An Nahar said that:

Lebanon in all its regions, sects and political movements cried for Rafik Hariri because all Lebanese consider that his assassination targeted them, their national unity, their inter-communal living and their belief in the establishment of a sovereign, free and independent Lebanon (Tueini, quoted in Schiller and Zahar 2006:44).

The massive demonstrations were the largest ever held in the region, and the uprising got names as “the Independence Intifada” and the “Cedar Revolution”. As Haugbolle (2010) shows, “different groups found different things to mourn and defend in Hariri’s death” (Haugbolle 2010:213). However, the Shiite political parties Hezbollah and Amal were supportive of Syria, and their adherents were missing in the demonstrations. During a press conference on March 6<sup>th</sup>, Hezbollah’s secretary-general Hassan Nashrallah called on his supporters to attend a rally aimed at expressing support to Syria and denouncing security council resolution 1559 (Shiller and Zahar:103). The rally was held on March 8<sup>th</sup>.

A crowd of estimated half a million people gathered in downtown Beirut and listened to Nasrallah thanking Syria. The demonstrators did not carry the characteristic yellow flags of Hezbollah, but waved only Lebanese flags, to show that they too were a part of the national equation (ibid:115).

A week later, one month after Hariri's death, on March 14<sup>th</sup>, an even larger crowd, estimated to be one million people (Schiller and Zahar 2006:129) gathered to demonstrate against Syrian presence. The demonstrators called for the withdrawal of Syrian military presence in Lebanon, the appointment of a neutral government with the task of preparing the parliamentary elections for May 2005 and an international investigation into Hariri's death (Knio 2008:446-447).

The two current political coalitions in Lebanon are named after the two huge, but intentionally quite different, popular demonstrations that were held on March 8<sup>th</sup> and 14<sup>th</sup> 2005. As for today<sup>7</sup>, Lebanon is still politically divided in these two camps, the alliance of "March 8<sup>th</sup>" known as "Pro-Syrian" and "March 14<sup>th</sup>" as "Anti-Syrian".

Following the popular demonstrations and international pressure, Syria withdrew from Lebanon. "Armed with Resolution 1559 and supported by major Arab countries such as Egypt and Saudi Arabia, the United States and France demanded and received the withdrawal of Syrian troops from Lebanon" (Safa: 2006:34). On the 26<sup>th</sup> of April, the Syrian troops were out of Lebanon, ending a military presence that lasted for almost 30 years. Even though the Syrian troops were out, it was impossible to verify whether the Syrian intelligence system in Lebanon was dissolved (Blanford 2006:164-165). "The troops might have gone, but the civilian-military apparatus that was created to ensure control over Lebanon remained largely in place with Lahoud still president and much of the military, security and judicial administrations essentially intact" (ibid:165).

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<sup>7</sup> The Progressive Socialist Party lead by Druze leader Walid Jumblatt is now placed somewhere outside this division, as PSP went out of the March 14<sup>th</sup> alliance in 2009, but did not join the March 8<sup>th</sup> alliance.

## **2.8 Political violence and a culture of impunity**

Long even before the civil war broke out, violence had been used to eliminate political opponents in Lebanon. Riad al-Solh, former Lebanese Prime Minister, was gunned down in 1951. Several members of parliament, members of political parties and editors of newspapers were also shot in the period 1950-1974 (Knudsen and Yassin 2007:3,22). "None of the murders was properly investigated, nor were those involved tried for their crime, which shows that the bosses were "above the law""(ibid:3).

There are no public records of political violence or political assassinations in Lebanon (Knudsen 2010:2). To get an overview of the assassinations data must be compiled from many sources. Various lists presenting assassinations in Lebanon are not exhaustive. This due to the lack of data and the problem of determining whether an attack has the definition of a political assassination, a definition Havens et.al (quoted in Knudsen 2010:2) define as "a deliberate, extralegal killing of an individual for political purposes" when most recorded attacks have neither suspects, trials nor convictions (Knudsen 2010:2).

Muhamad Mugraby (2009) argues that political assassinations are not new to Lebanon. He presents a long list of assassinations and killings in Lebanon before that of Hariri, most of them unresolved, unpunished, badly investigated or whitewashed by the general amnesty:

The list of those assassinated before Hariri is long. Prominent journalists, members of parliament and Muslim religious leaders were assassinated as well, before, during and after the war on Lebanon. Starting from 1957 the lists includes editors of daily or weekly papers: Nasib Metni, Riad Taha, Kamel Mroueh and Salim Lozi. Assassinated members of parliament include Mohammad Abboud, Naim Mghabghab, Marouf Saad, Kamal Jumblat, and Nazem al Qadri. Former MP, minister and militia leader Elie Hobeiqah and party leader and former militia leader Dany Shamoun were assassinated, the latter with his wife and two small children. MP Toni Franjeh was assassinated with his wife and little girl as part of the Ehden massacre that took over 30 other lives. Four Muslim Sunni religious leaders were assassinated, namely, Grand Mufti Sheikh Hassan Khalid, Sheikh



Sobhi Saleh, Sheikh Admad Assaf and Sheikh Nizar Halabi. A Shiite religious leader, Imam Mousa Sadr, disappeared without trace with two companions, journalist Abbas Badred-dine and Sheikh Mohamad Yakoub, while they were in Libya as guests of the Libyan government, and are presumed to have been assassinated. Many prominent writers, including Kamal el Haj, Husain Mroueh and Hasan Hamdan, were gunned down. Political party leaders such as Khalil Naous, Isam Arab, Ramzi 'Irani, Adnan Sinno and Wisam Zenid-dine were assassinated. (...) One sitting president, Rene Muawad, and one president-elect, Bashir Gemayel, were assassinated. A sitting prime minister, Rashid Karamah, was assassinated in 1987. An attempt was made on the life of another sitting prime minister, Salim Hoss, from which he escaped miraculously, but others died.

(Mughraby 2009:37-38)

The list of assassinations of politicians and prominent public figures did not stop with the Taef-agreement or during the transitional period from war to peace (1989-91). In May 1989 the Sunni Grand Mufti Hassan Khaled and 21 others were killed by a roadside bomb in Beirut. The same year the newly elected president René Moawad was assassinated by a car bomb in late November. A year later, Dany Chamoun, leader of the Tiger militia, was murdered, Elias Zayek, a Phalange party official was also murdered in 1990. In December 1991, a car bomb injured former Prime Minister Shafik Wazzan. The bomb exploded in a neighbourhood in Beirut, killing 30 people. With the exception of the killing of Chamoun and Zayek, the other killings were not properly investigated and nobody tried (Knudsen 2010:9).

According to Knudsen's overview, from 1989 to 2010, 35 major attacks killed and maimed politicians and journalists. "No Middle Eastern country has such a grim record of political assassinations, the large majority of them unsolved" (Knudsen 2010:1). Several of the assassinations in Lebanon have been pre-emptive, killing newly elected leaders, thus preventing them from taking office (Knudsen 2010:18).

## **2.9 The events leading up to the establishment of STL**

There was instant international attention and condemnation of the explosion that killed Rafik Hariri on February 14<sup>th</sup> 2005. The same day UN Secretary General condemned “in the strongest terms those who instigated, planned and executed this callous political assassination” (UN 2005a).

The next day, on February 15<sup>th</sup> the Security Council summoned for a meeting with only one thing on the agenda: The situation in the Middle East. The Security Council issued a statement about the killing of Rafik Hariri and others where "The council calls on the Lebanese government to bring to justice the perpetrators, organizers and sponsors of this heinous terrorist act, and noting the Lebanese government's commitments in this regard. The council urges all states, in accordance with its Resolutions 1566 (2004) and 1373 (2001), to cooperate fully in the fight against terrorism." (UN 2005b)

The UN Secretary General sent a fact-finding mission to Lebanon, lead by Deputy Commissioner of the Irish Police, Peter FitzGerald, which arrived in Beirut on February 25<sup>th</sup> 2005. The mission's report, often referred to as the Fitzgerald report<sup>8</sup>, of March 24 2005 recommended that there should be established an independent international investigation into the attack, as it “became clear to the Mission that the Lebanese investigation process suffers from serious flaws and has neither the capacity nor the commitment to reach a satisfactory and credible conclusion” (UN 2005c:3).

As a result of the recommendations in the FitzGerald report, The UN International Independent Investigation Commission (UNIIC) was established by UN Security Council Resolution 1595 in April 2005. The UNIIC, lead by German judge Detlev Mehlis, published a report on October 19 2005. The report indicates that Syria must somehow be involved in the assassination. The conclusion of the report states “There is probable cause to believe that the decision to assassinate former

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<sup>8</sup> Full name: “Report of the Fact-Finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri”

Prime Minister, Rafik Hariri, could not have been taken without the approval of top-ranked Syrian security official and could not have been further organized without the collusion of their counterparts in the Lebanese security services” (UN 2005d, point 123).

Based on this suspicion, Mehlis issued four arrest warrants against senior Lebanese security officials for having participated in planning Hariri’s assassination. The top officials for the Presidential Guard, the Sûreté Générale, the Internal Security Forces and the Lebanese army, “the four generals” were arrested on September 3. 2005 (Zahar 2009:303).

Whilst the UNIIIC, in cooperation with Lebanese officials, conducted its work in Lebanon in 2005, several bombs went off in and around Beirut. Several prominent persons were assassinated in car bombings, other bombs exploded in shopping centres and busy districts (UN 2006a:34). On June 2<sup>nd</sup>, 2005, Samir Kassir, a famous journalist and outspoken Syria-critic, died when a bomb went off in his car as he was supposed to drive to work. The same month, George Hawi, a former leader of the Lebanese Communist Party, was killed when a bomb exploded in his car. Elias Murr, defence minister, survived a car bomb targeting him in July 2005. May Chidiac, a famous TV-journalist, almost lost her life when a bomb went off in her car in September 2005. She lost a leg and an arm, but survived. She is certain that the Syrian regime targeted her because she was criticizing the Syrian regime (Chidiac 2012 [interview]).

Gebran Tueini, editor of An Nahar, was assassinated on December 12, 2005. The day after the assassination of Tueini the Lebanese Government, headed by Fouad Siniora requested the UN to establish a “tribunal of international character”. The request also asked for an extension of the mandate of the UNIIIC to include the ongoing string of related attacks. As a response, the Security Council’s resolution 1644 from December 15<sup>th</sup> 2005 expanded the mandate of the UNIIIC to include

technical assistance to the Lebanese authorities regarding the investigation on the terrorist attacks perpetrated in Lebanon since October 1<sup>st</sup> 2004<sup>9</sup> (UN 2005e).

Resolution 1664 also requested the Secretary-General to negotiate an agreement with the Government of Lebanon aiming at establishing a “tribunal of an international character based on the highest international standards of criminal justice” (UN 2006b). The tribunal, which later got the name The Special Tribunal for Lebanon, will be examined in detail in chapter 5.

## **2.10 Developments 2005 – present**

Elections in 2005 gave the March 14<sup>th</sup> alliance the slight majority of the votes (72 of 128 seats). The opposition, including Hezbollah, was also granted ministers in the new government headed by Fouad Seniora.

In July 2006 Hezbollah’s cross-boarder raid into the Israeli-controlled Sheeba Farms territory escalated into a major war with Israel. By the end of the 33-day war Lebanon was substantially weakened, and had lost infrastructure, roads and bridges. The war left more than 1000 civilians dead and the combat zone in the South littered with more than a million cluster bombs (Knudsen 2010:15).

Hezbollah and Amal withdraw their cabinet ministers from the government in November 2006, in protest over what they say as the Siniora government’s reluctant support for Hezbollah during the 2006-war (Haugbolle 2010:235) and disagreements over the ratification over the planned Special Tribunal for Lebanon, at that time referred to as the Hariri tribunal (Knudsen 2010:15). Displaying their lack of confidence in the government, Hezbollah’s supporters began a sit-in in front of the parliament in December 2006. Downtown Beirut became paralyzed for the next 18 months and politics came to a halt as access to the Parliament was hindered. The agreement, which was negotiated between UN

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<sup>9</sup> Marwan Hamade survived a car bomb on October 1<sup>st</sup> 2004. He had resigned as a minister weeks before in protest over the extension of President Lahouds mandate. His assassination attempt is considered to be the first in the string of assassinations.

and Lebanon over the establishment of the STL, could not be ratified because of this stalemate.

2007 saw street clashes between Sunni and Shiite youth in Beirut (Haugbolle 2010:235). 2007 was also marked by several car bombs. Member of Parliament Walid Eido was killed in mid-June. "The assassination was widely interpreted as a calculated move to end the ruling coalition's slim parliamentary majority by killing its MPs" (Knudsen 2010:16). In September MP Antoine Ghanem, also from the March 14<sup>th</sup> alliance, was killed by a car bomb in Beirut. Military general Francois al-Hajj was assassinated by a car-bomb in December 2007. Fear of the return to a new civil war was evident as the many assassinations raised conflict levels. "The suspension of parliamentary politics made politicians act as confessional leaders and there was now credible evidence that militias were rearming and undertaking armed training" (ibid:16). Because of the stalemate, it became impossible for the politicians to agree on a successor when President Lahoud's term expired in 2007.

In the spring of 2008 the tensions between the government and opposition escalated. This was linked with the regional conflicts between Syria and Iran on one side and Saudi Arabia and the United States on the other (Haugbolle 2010:235). Tensions culminated between 8<sup>th</sup> and 14<sup>th</sup> of May 2008, when the government decided to close down Hezbollah's private communication network. Hezbollah strongly denounced the decision and moved their arms into Sunni West Beirut and the Druze mountains, which resulted in street clashes between rival militias that left 65 people killed (Knudsen 2010:17, Haugbolle 2010:235). The political turmoil was resolved by negotiations lead by Qatar and the signing of the Doha Agreement. The agreement gave veto to the opposition in cabinet and paved the way for the election of a president (Knio 2008:446). Michel Suleiman was elected president on 21 May 2008. A "National Unity Cabinet" with 30 seats from both fractions came into formation three weeks later, and persisted until the elections in 2009.

The elections in 2009 gave the March 14<sup>th</sup> alliance 71 seats and the March 8<sup>th</sup> alliance 57. After months of negotiations, a new Government was formed, lead by Rafik Hariri's son Saad Hariri as Prime Minister. The government included 10 opposition ministers. In early 2011 the opposition, headed by Hezbollah, withdrew its ministers causing the government to collapse. Saad Hariri had to step down as Prime Minister. The cause of the collapse was over the issues relating to the Special Tribunal for Lebanon. Hezbollah had warned for months that it would not allow the arrest of any of its members to the STL, and wanted the Government of Lebanon to distance itself from it (Karon 2011).

A new government headed by Najib Mikati received its parliamentary vote of confidence in June 2011, and is currently governing the country. The March 8<sup>th</sup> alliance has the majority of the ministers. The summer 2011 saw political bickering over the annual payment to the tribunal, which Hezbollah refused. Eventually Mikati provided the money from the budget of the Prime Minister's Office (Aboulmona and Khraiche 2011).

### 3. Method

In order to answer my research question I will conduct a qualitative study applying qualitative methods. Qualitative studies are used to learn about the world in ways we cannot use numbers. Statistical numbers could give us an exact overview of those in Lebanon being against, for or neutral towards the Special Tribunal, but those numbers would not tell us *why* and *how* people have these assumptions.

Qualitative methods are designed to capture social life as participants experience it. They focus on human subjectivity, on the meanings that participants attach to events and to their lives (Chambliss and Schutt 2010:222). Qualitative methods are for example interviewing, fieldwork and case studies, in which a combination of several methods can be applied.

The research question is *exploratory*, it intends to find out what people think and how they act, and why they do so, related to a special phenomena. The research approach for exploratory research is primarily inductive (Chambliss and Schutt 2010:222), which means that the research is started by gathering data, rather than with a theory.

#### 3.1 Case study

This study is a case study, a qualitative method that can be applied in a number of academic disciplines, such as history, anthropology, sociology and political science (Gerring 2007:2). Case study is much used in my academic background, which is multidisciplinary area studies of the Middle East.

The English word *case* has a variety of meanings connected to it. According to Gary Thomas the word is taken from two similar Latin roots, *capsa* meaning ‘box’ or ‘container’, and *casus*, meaning ‘event’ or ‘accident’. The “case” in a case study

could have elements from both meanings. If the case is like a container, it comprises a complex state of affairs, facts and objects. The case study is about focusing on the complexity of what is in there (Thomas 2011:12-13). A case study about local perceptions and legitimacy challenges of the Special Tribunal for Lebanon will aim at finding out "everything" about the tribunal and these challenges and perceptions. Case studies use as much information and as many sources as possible.

A case study aims at looking at relationships and processes, by using many methods and sources of data (Thomas 2011:11). A case study is a holistic approach, where the case study is good for getting a rich picture and analytical insights from it. "The product of a good case study is *insight*" (Gerring 2007:7).

Case studies are generally strong where statistical methods and formal models are weak (George and Bennett 2005:19). There are however different opinions about whether or not case studies can generalize from their findings. John Gerring holds the opinion that a case study can, at least in part, shed light on a larger class of cases (2007:20), while Thomas (2011:17) on the other hand says explicitly that you cannot generalize from a case study, as it is about the particular rather than the general.

Case studies are a comprehensive description and an analysis of some event. "Sometimes, in-depth knowledge of an individual example is more helpful than fleeting knowledge about a larger number of examples. We gain better understanding of the whole by focusing on a key part" (Gerring 2007:1).

In order to get information, I conducted semi-structured interviews and studied a range of primary and secondary sources. In addition to the interviews, primary sources include Security Council resolutions, reports from the Secretary General and official agreements and documents from the Special Tribunal for Lebanon (STL) such as the rules of procedure and evidence. Secondary sources include literature on international tribunals and transitional justice, as well as Lebanon's history and political system.



### 3.2 Finding interviewees

I conducted 14 interviews in Lebanon in February 2012. I interviewed both young Lebanese from the civil society, and public figures which held views of either being pro- or anti- STL. For civil society members I chose to focus on women and men in the age between 20 and 31 with different political views, and also those who distance themselves from Lebanese politics. The age group was selected both because I was interested in the opinions of young Lebanese, those who did grow up after the civil war ended, and also in an attempt to limit my group as it would be a too comprehensive task to sample all age groups.

The qualitative interviews conducted are not statistically representative for the population of Lebanon in general. A sample used in statistics will try to show as accurately as possible the quality of the whole. With 18 different, officially recognized religious groups in Lebanon I would have needed to interview a large amount of people in order to aim at a “fair representation” if my study were to be a quantitative one. This is both beyond the capacity of this research and not wanted in a case study. As Thomas argues, a case study is not a sample, it is a choice, a selection (Thomas 2011:62). Rather than being interested in “how many” that has an certain opinion, I am interested in the thoughts and ideas behind that opinion of those I interview. The opinions and thoughts about the STL are representative of some of the citizens in the country, not all. If a person is negative or indifferent towards the STL, this research can give us valuable insight into *some of the reasons* why someone can be negative or indifferent. In conducting the research I wanted to find as many viewpoints as possible and the causes behind them.

In order to finding interviewees I conducted *purposive sampling*, where “the researcher samples on the basis of wanting to interview people who are relevant to the research question” (Bryman 2008:458). A technique of finding interviewees when they are not going to be statistically representative is *snowball sampling*. The snowball sampling works by letting one interviewee recommend

me a few other persons to talk to. When a few interviews are conducted, I will hopefully have many new appointments.

I already had some contacts in Lebanon when I started the fieldwork who could provide me with my first interviews. I then asked my interviewees if they knew of other people, probably with other opinions than their own, that they thought I should talk to. My interviewees then made the initial contact with the potential next interviewee and told them what the research was about, in which they could easily decline, or agree to meet me. Because I already had a modest network in Lebanon before, I had contact persons in the Catholic, Maronite, Shia and Sunni community, and all of those gave me additional contacts that wanted to meet me. I thus based my “snowballing” on many starting points, because I was aware that the snowball-method could give a biased outcome if I only met people from the same religion or political orientation - as most people naturally would recommend their friends and those who think alike. Appendix I contains a list of interviewees, including age, occupation and religious background.

The public figures I interviewed were contacted through e-mail, telephone and my network in Lebanon, which include some well-connected journalists to whom I am very grateful.

### **3.3 Conducting interviews**

I conducted semi-structured interviews. My interview-guide consisted of some pre-made questions distributed over four main topics that I wanted to be covered. The questions were more to be considered as guidelines, as the interview process was flexible. The interview guide is attached in appendix III. The interviews had often the form of a conversation. What is important in semi-structured interviews is what the interviewee views as important, in explaining and understanding events, patterns and forms of behaviour (Bryman 2008:438).

I conducted all interviews in English except from one in which I had an Arabic translator. English (as well as French) is widely spoken in Lebanon. However, I am aware that misunderstandings and different interpretations might have occurred, since English is neither the interviewees' native language nor mine. As an example I had an interviewee talking about the risk of war. Listening to the recording it is impossible to determine whether he said "internal war" or "eternal war", which indeed are two different concepts. From the context however it is clear that he talked about internal war, as he compared "internal war" to "external war". I tried to ask my interviewees straight away if there was something I did not understand, so that they could clarify. However, misunderstandings could still occur.

All interviews were recorded and transcribed. The interviewees' openness and willingness to be recorded was a pleasant surprise, as I didn't have to write continuously during the interview. None of the interviewees had any objections to being recorded, and I assured them that I was the only one to listen to the recording. As elaborated in the ethics section further below, the recordings and transcripts were kept confidential. I was mindful to keep the audio recorder running even when the interview was about to finish. As expected, I experienced that many interviewees opened more up and relaxed more toward the end of the interview, and came with valuable information at the end of the session.

Even though I recorded the interview, it was important to me to be attentive and to listen carefully during the interview. I tried to ask follow-up questions to what I heard, both because that is a way of getting more information or to clarify, but also to show that I respected and appreciated what the interviewee is saying. Body language can tell if the informant becomes uneasy or anxious about the questioning (Bryman 2008:447). I barely encountered this, but I constantly kept in mind that as a researcher I need to be ethically sensitive. I did not want to put pressure on the person I was talking to. As an ethically sensitive interviewer I was prepared to cut short a line of questioning if it was clearly a source of concern (ibid:447).

### **3.4 Ethical considerations**

Ethics is an important consideration in this study. I am looking into topics that potentially are sensitive. The murder of Rafik Hariri was in itself an astonishingly brutal act, an act that shattered the post-war consensus and for many reopened the wounds of the civil war (Knudsen 2010:1). As Lebanon did not undergo any sort of reconciliation after the civil war, I suspect there is much unsaid and perhaps repressed feelings regarding some issues that I as an outsider should be careful bringing up. The political tension in Lebanon has only increased after the creation of the STL, and I intended to be careful as a researcher not to cause emotional stress or pushing my interviewees into talking about issues they would prefer to be silenced.

According to Chambliss and Schutt, the very act of research itself imposes something “unnatural” on the situation. It is up to the researcher to take responsibility for the consequences of her involvement (Chambliss and Schutt 2010:242).

I made it very clear to my interviewees that participating this research is a voluntary affair. This was made clear both in speech and in writing by handing out a “consent form” which had to be signed at the start of the interview (appendix II). The interviewees received a copy of the form, which informed them about the purpose and aim of the research, my contact details, and the important reminder that they have the right to withdraw from the study at any point, until the thesis is finished. I informed and emphasised that if there were any questions the interviewee felt uncomfortable with, he or she could just say so, and we would skip the question without any implications.

I conducted the interviews, quite obviously, as an outsider, a scholar and a Westerner. This could be an advantage for my research, as the interviewees could consider me more neutral, assuring them that I didn’t belong to any of the various sects or political parties in Lebanon. On the other hand, I kept in mind that a “Western” might be considered to be more in favour of the “westernized” March

14<sup>th</sup> coalition and their viewpoints regarding the STL. I was however met with very little suspicion. Maybe this can be explained by the fact that I at a very early stage made it clear that I was a researcher conducting my research on a neutral basis, that I wasn't affiliated with any political party, neither that I received funding or guidelines from any institution etc. I also suppose my Norwegian nationality was helping me being perceived as neutral, as Norway is not a country that has had imperialist motives in Lebanon and can be perceived as balanced in its support of Israel. One of my interviewees illustrated this by saying "Because Norway is very...It is balanced. It has an Israeli embassy, but it also has a Palestinian embassy. The UK is not so. The UK is an imperialist nation, who has imperialist objectives" (Omar Nashabe, 2012 [interview]).

### **3.5 Anonymization and confidentiality**

I divide informants into two groups: public figures and civil society members. The public figures, like Omar Nashabe who is an editor in the newspaper Al-Akhbar, have public viewpoints in which is repeatedly and voluntarily expressed. This is not the case with civil society members. Some of the interviewees choose to be anonymous while others had no objections with their names being published.

The political situation in Lebanon is unstable and can change. The STL is a contested and ongoing process, in which perceptions and attitudes toward it may change over the years. Contrary to the public figures that explicitly and usually state their opinions in public, the only reason my interviewees' viewpoints would be published is because of this research. The actual names of the civil society members are not important to this study. What is important is the opinions and viewpoints held by the interviewees, as representatives from the civil society. Keeping this in mind, and the fact that this thesis will be available on the internet where a simple Google search could link a persons name to this thesis, I came to the conclusion that it is ethically more appropriate to anonymise all the "civil

society members”. I will not let this study be responsible for putting any of my informants at any risk at a later point.

To make the text reader-friendly my interviewees have been given a substitute name. I have given them typical Lebanese names from their own religious group<sup>10</sup>. I have not recoded the names or any identifiable information about the the interviewees that already from the start decided to be anonymous. The recorded audio files and the transcription were only stored on my personal computer and backup device both protected by a password. All notes, recordings and transcripts that are not directly stated in the thesis will be deleted after the thesis have been submitted and graded.

*Norsk Samfunnsvitenskapelig Datatjeneste, NSD*, (Norwegian Social Science Data Services) is a control organ for ensuring that research is conducted in an ethical and legal manner. NSD approved my research proposal, interview guide and consent form in January 2012.

### **3.6 Analysing the data**

All interviews were transcribed word by word for further analysis. Transcription in itself is a large and time-consuming task involving some interpretive dilemmas. According to Kvale (1997:104) transcriptions are not copies or a rendering of the reality, they are abstractions in the same way a map is an abstraction of the original landscape it is derived from. Instead of being the “real” interview, a transcription is a tool for analysing it (ibid:116). The atmosphere, the pace, mood and other emotions are impossible to convey in a transcription. I have thus made notes in the transcriptions about whether I perceived the interviewee to be angry, enthusiastic, frustrated etc. whilst talking about the different subjects. This

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<sup>10</sup> Many names in Lebanon are typical for a certain religious group. A Christian is rarely named Muhammed or Mahmoud for example.

is also important for the analysis as it conveys the emotions and perceptions people showed towards the tribunal.

I started the analysis with a large material of transcriptions from the interviews and various documents such as UN reports, books, articles and newspaper articles. To make sense out of the collected data it needs to be analyzed: they need to be broke down to manageable pieces and thoroughly looked into. According to Corbin and Strauss (2008) analysis of the data involves coding. Coding takes raw data and raises it to a conceptual level. Concepts are derived through coding.

[Coding] involves interacting with data (analysis) using techniques such as asking questions about the data, making comparisons between data, then developing those concepts in terms of their properties and dimensions. A researcher can think of coding as “mining” the data digging beneath the surface to discover the hidden treasures contained within the data (Corbin and Strauss 2008:66).

After I had carefully examined the interviews, I identified what I found as main challenges, and categorized the material under these different challenges. The goal is to try to understand how different people perceive the tribunal, not whether it is “right” or “wrong”. This is in line with a post-modern theory of interpretation: trying to understand how different people see the world, without believing that there is one “actual” or “uniquely” correct description (Chambliss and Schutt 2010:253).

In order to let the reader have a chance to draw his own conclusions, I have provided many direct quotes from my interviews in the text. Quotes are thus taken directly word-by-word from the transcription. I have changed nothing except some obvious grammatical errors and repetitive words. If the quote is taken out from a longer line of reasoning, I have added the subject talked about in square brackets in order to provide the reader with context.

### **3.7 Modifying the research question**

Kvale (1997:114) emphasizes that in order to analyze the interviews you have to know what is going to be found out or discovered and why. In line with what is common in exploratory research, I needed to write and re-write my research question many times during the writing process in order to find a formulation that would encompass the things I discovered during research and the things I wanted to find out. The research process was not linear, but rather circular.

My initial thought was to look at the consequences the establishment of the tribunal had in Lebanon, both in the civil and political society. In order to do this, I relied much on media reports from the political scene since 2005. However the civil society members I interviewed provided me with another sort of information, which was their personal views on the tribunal. My interviewees often, and in different ways, questioned the legitimacy of the tribunal. Also the STL Outreach officer pointed out to me during the first interview that it is a bit early to look at the consequences of the STL in terms of the life of the tribunal itself, as the trials have not started yet. I found it thus more fruitful to change the focus to gaining an understanding of the local perceptions of the tribunal, and identifying some of the challenges the STL is facing here and now, as the trial proceedings are about to start.

### **3.8 Reliability and validity**

Reliability refers to whether the research is reliable - that is to the extent a different researcher applying the same procedure in the same way, will produce the same result (King et. al 1994:25-26). There are different opinions in whether reliability can be applied in case studies. Thomas (2011:63) argues that since each case is unique in itself and in the time it was investigated, there can be no assumption that if the same research was to be repeated by different people at a different time, the same findings would result. Indeed, what happens in Lebanon



and the work of STL are ongoing processes. If a different researcher was to travel to Lebanon and interview the same people I did in some years time, their thoughts and answers are very likely to have changed somewhat, due to changing circumstances.

Validity is about to the extent the research is measuring what researcher wants to measure or find out, if the research is valid. "Validity refers to measuring what we think we are measuring" (King et.al 1994:25). Validity requires reliability as a precondition (Hoyle et.al 2002:83). According to Thomas, in conducting a case study we might not have an idea about what we expect to find out from the research, so the idea of validity is less meaningful (Thomas2011:63).

For Thomas the concepts of reliability and validity are not fruitful in a case study. "The quality of a case study depends less on ideas of sample, validity and reliability and more on the conception, construction and conduct of the study " (Thomas 2011:71). The quality on the study depends on the thoroughness in which one describes its context, the analysis and the arguments you use in drawing the conclusions (ibid:71).

Elaborating the research process in sufficient detail also increase the trustworthiness of the research. According to King et. al. (1994:26) all data and analysis should be replicable, insofar as possible. This does not only count for the data I collected, but to the entire reasoning process used in producing conclusions. By providing a reference list and explaining the reasoning process in detail, succeeding scholars should be able to locate the sources and trace the logic by which I made my conclusions (See for example King et. al:26). The research will be explained in sufficient detail so the reader can follow the references and trace the logic of which the conclusions are made.

It is also important to keep in mind that conclusions of all scientific research are uncertain. "Uncertainty is a central aspect of all research and all knowledge about the world. Without a reasonable estimate of uncertainty, a description of the real world or an inference about a causal effect in the real world is uninterpretable"

(King et.al 1994:9). I as a researcher must be aware of this, not draw quick conclusions and know that my theories and conclusions will be uncertain, and shaped by my own biases and views on the world.

## **4. Theoretical framework**

### **4.1 Transitional justice and the development of international tribunals**

Transitional justice refers to the set of judicial and non-judicial measures that different countries have implemented in order to deal with the aftermath of war, conflicts, suppression and massive human rights abuses. This can include criminal prosecutions, truth commissions, various kinds of institutional reforms, and reparations programs (ICTJ 2012).

Some of the first attempts by the international community to judge and convict political leaders responsible for war crimes took place at the Paris Peace conference in 1919 with the signing of the Versailles Treaty after the end of the First World War (Cerone 2009:133-134). In the aftermath of the Second World War the International Military Tribunals at Nuremberg and Tokyo signalled the beginning of a new paradigm; when individuals have committed atrocities as grave as happened in the WWII, there had to be an international demand for accountability. The Nuremberg trials showed that individuals had duties under both national and international law, and that international law could reach beyond state borders and give individuals responsibility for violating these obligations (Raub 2009:1014). According to Pierre Hazan (2010a) the way the West handled the Nazi crimes was the womb from which the concept of transitional justice was born (Hazan 2010a:13).

Even though the Nuremberg trials can be considered the start of this new paradigm of accountability, the Cold War (1945 -1991) made the progress halt. According to Hazan (2010b) the establishment of the International Tribunal for Former Yugoslavia<sup>11</sup> (ICTY) in 1993, and the creation of the South African Truth and Reconciliation Commission (TRC) in 1995, was unthinkable during the Cold

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<sup>11</sup> Full name of the tribunal: The International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia.

War. This because transitional justice mechanisms involve complex relations between local and international factors, and South Africa was one of the many places of confrontation between the East and the West (Hazan 2010b:49).

Not long after the end of the Cold War the first tribunal to deal with genocide was established: the International Criminal Tribunal of the former Yugoslavia (ICTY) was set up by the United Nations in 1993. The year after, the International Criminal Tribunal for Rwanda (ICTR) was created. Both tribunals were established by the United Nations Security Council resolutions. The world community was sending the first signals that impunity for such vast atrocities, even if they occurred within a country's borders, was no longer acceptable.

According to Hazan (2010b), the term "transitional justice" stems from a paradigm of transition developed in the mid-1980's by American political scientists. The Reagan administration celebrated what they saw as a "worldwide democratic revolution" unfolding, and the concept of transition rapidly entered into the interpretation of the new international reality. "States as different as Mauritania, Mongolia, and El Salvador were experiencing political liberalizations and some hundred countries seemed to be "in transition" toward democracy" (Hazan 2010b:50).

Since the end of the Cold War the concept of transitional justice has developed rapidly in line with an increasingly more globalized world. Especially during the last two decades, scholars and practitioners have increased their attention on questions on how countries and societies can come to terms with a history of violence and war, oppression and human rights violations (Fischer 2011:406). "At the crossroads of politics, law, ethics, psychology and religion, transitional justice challenges all social actors, for it poses fundamental questions about the nature of societies trying to awaken from the nightmare of war and repression" (Hazan 2010a:11).

Advocates of international trials, as opposed to domestic, argue that international trials are "able to draw on the expertise of international judges and lawyers who

are better qualified to contribute to the progressive development of international law and to conduct impartial proceedings than national governments emerging from recent conflict” (Raub 2009:1017). Kaminski et. al argues that international tribunals “offer better prospects of due process and impartiality, which give their decisions more legitimacy. Since international tribunals are typically situated outside the state in conflict, they can better protect judges and prosecutors from ongoing violence or intimidation by the former regime’s supporters” (Kaminski et al 2006:296).

After the creation of the ICTY and ICTR, other tribunals were created of hybrid character, such as the hybrid tribunals of Kosovo, East Timor, The Extraordinary Chambers in the Courts of Cambodia and the Special Court of Sierra Leone. A hybrid tribunal is also referred to as “internationalized or “mixed” tribunals. These tribunals combine the efforts of the international community and the state in which the crimes have occurred (Raub 2009:1016). Even though this remains to be debated, the expertise of the international community combined with the legitimacy of local actors can be seen as the “marrying of the best of two worlds” (ibid:1023).

While the tribunals mentioned above have mandates limited to a specific conflict and a specific time, there was a general agreement that the world needed an independent, permanent criminal court. The belief that there should be international reactions to extreme human rights abuses where states are either unable or unwilling to conduct judicial responses had further evolved.

Kaminski et al. (2006:296) refers to this development as “the trend toward tribunality”, a trend that culminated with the Rome Statutes and the creation of the International Criminal Court (ICC). The ICC is treaty based and governed by the Rome Statutes, which was adopted by 120 countries in 1998. The court came into being on July 1<sup>st</sup> 2002, when 60 countries had ratified the statutes. The ICC is the first permanent, international criminal court, and it is established to help end impunity for the perpetrators of the most serious crimes concerning the

international community (ICC 2012). The seat of the ICC is in The Hague in the Netherlands. The ICC has been criticised for making it impossible for warlords to give up fighting in an exchange for amnesty, and the court's existence can thus prolong wars. The ICC is however intended to have a preventative effect, as the countries that have ratified the Rome Statutes no longer can accept impunity. "The international community was sending a credible signal to those contemplating crimes against humanity that they would not be able to negotiate their way out of punishment" (ibid:296-297).

## **4.2 Transitional Justice and Liberal Peace Building**

In debates on democratisation, nation-building and state reconstruction, the concept of transitional justice has come to play a prominent role in academic debates. Transitional justice is not only an academic subject, rather, it is an active domain of policy, practised by the United Nations and supported by various international organizations and financial institutions (Fisher 2011:406, Sriram 2009:116).

In 2004, the United Nations Secretary General issued the first report of its kind on *The rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*. The report states the view that "Justice, peace and democracy are not mutually exclusive objectives, but rather mutually reinforcing imperatives" (UN 2004a). The report treats the rebuilding of the rule of law and specific mechanisms of transitional justice as central to post-conflict peacebuilding (Sriram 2009:117). The growth of the policy of transitional justice is reflected in the report; the last two decades transitional justice has grown into a normalized and globalized form of intervention following a civil war and political repression (Shaw and Waldrof 2010:3).

An interesting perspective is offered by Chandra Lekha Sriram (2009), where she claims that peacebuilding theory and practices, in which transitional justice is a

part, reflect the liberal internationalist paradigm which relies heavily on two strategies – developing market economies and developing democracy – as pathways to peace (Sriram 2009:113). The central premise behind this paradigm is the assumption that the surest foundation for peace, both within and between states, is marked democracy: a liberal democratic government and a market-oriented economy (Ronald Paris, in Sriram 2009:114).

Democracy is closely linked to liberalism and democracy because democratic participation or representation is a necessary part to guarantee the liberal rights (Doyle 1997:207). The liberal internationalist paradigm is supported in part by the “democratic peace” thesis, which holds that democracies are less likely to go to war with each other (Sriram 2009:114). The Democratic Peace thesis hold that liberal states founded on individual rights such as equality before the law, free speech and other civil liberties are fundamentally against war<sup>12</sup>. In this way, peacebuilding activities involving transitional justice can, in the larger perspective, be considered attempts at transforming states where the atrocities occurred to have a more peaceful outlook.

Liberal peace building and transitional justice share a common faith in that institutional arrangements and fundamental goods such as democracy, free markets and “justice” can essentially create peace (Sriram 2009:112). However, Sriram argues, it is not necessarily so. Criticism of this paradigm states that it is a poor model for states emerging from armed conflict, and is likely to cause destabilization (ibid:114). Transitional justice processes and mechanisms, can, like liberal peacebuilding efforts, destabilize post-conflict countries and be externally imposed and inappropriate for the political and legal cultures in which they are imposed (ibid:112).

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<sup>12</sup> Doyle (1997) illustrates this theory: “When the citizens who bear the burdens of war elect their governments, wars become impossible” (Doyle 1997: 206).

### 4.3 Critique and questions of legitimacy of international tribunals

According to Pierre Hazan, one of the fundamental challenges to international justice is its controversial legitimacy (Hazan 2010a:161). This challenge was present already at the Nuremberg trials in 1946 where Nazis denounced them as “victors justice”. Slobodan Milosevic, former Serbian president, also challenged the legitimacy of the ICTY and considered it a judicial arm of NATO (ibid:161).

The ICC’s warrant arrest of Sudanese president Omar al-Bashir accusing him for war crimes and crimes against humanity was met with criticism of the court’s “judicial neo-imperialism”, and many, amongst them the Arab League and the African Union accused the court of violating Sudanese sovereignty and for threatening the chances of reaching a peace accord (Hazan 2010a:161). The African Union announced in 2009 that it would not take notice of the indictment of the Sudanese president. Even though it was the ratification by many African countries of the Rome Statutes that made it possible for the ICC to start functioning in 2002<sup>13</sup>, the example with Omar Bashir show how difficult it still can be for a court to gain legitimacy. “[T]he reaction to the indictment of Omar al-Bashir underlines the fact that the effectiveness of the courts internationally rests on their moral authority” (ibid:161).

Hazan (2010a) observes that the International Criminal Court has the ambition to be universal, but is not (Hazan 2010a:162). This is clearly illustrated by the fact that three of the five permanent security council members (The United States, China and Russia) have not ratified the Rome Statutes, and can use their veto in the Security Council to avoid any prosecution (ibid:162).

Hazan (2010b) argues that there has been a shift in transitional justice after September 11 2001. With the invasion of Afghanistan and Iraq, the horrific pictures from the Abu Ghraib prison and the Guantanamo military base, the interrogative techniques and alleged torture, all in the name of human rights, the

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<sup>13</sup> The barrier of 60 ratifications needed for the ICC to start functioning, was helped reached with the many participating African countries (Hazan 2010a: 162).



climate changed. "As a result of the Bush era and the post-9/11 international environment, transitional justice no longer represents the hope for change and global democracy that it did in the 1990's" (Hazan 2010b:64).

According to Hazan, the challenges of international justice are further exacerbated in the Middle East. The work of international tribunals and commissions of inquiry are more difficult in this region because of the colonial legacy, the many conflicts, foreign military intervention and the lack of democracy (Hazan 2010a:163).

The political context upon the creation of international courts and tribunals must also be taken into consideration. "The former judge of the ICTY, Georges Abi-Saab, noted that international justice does not exist, like an astronaut, in a state of weightlessness outside power struggles, but in the real world, breathing the oxygen of politics" (Hazan 2010a:165). "In a conflict, the belligerents and their allies use these instruments of justice to support the legitimacy of their cause, to isolate, weaken, and criminalize the enemy and impose their narrative in the public arena" (ibid:165).

Transitional justice and tribunals are frequently imported from the outside and occasionally externally imposed. Because they are derived from Western models, they might be in part inappropriate in other political and legal cultures (Sriram 2009: 123). "However, there is a dilemma: whether or not the model for transitional justice is Western, there is often a real indigenous demand for accountability. It should presumably not be denied on the grounds that it is a Western demand" (ibid:123).

#### **4.4 The difference between a trial and a truth commission**

Transitional justice consists of various approaches to deal with the horror of a gruesome past. As an alternative, or a supplement to trials, various truth-commissions have been established the last two decades. A fundamental

assumption of truth and reconciliation commissions is that revealing the truth is an important step towards reconciliation and healing (Le Touze et.al 2005:192).

Even though truth commissions cover much of what could also be subject to trials, they should be seen as separate and independent (Hayner 2011:13). Even though truth commissions have very limited legal powers, they have a broader mandate and can focus on the patterns, causes and consequences of violence and atrocities. Truth commissions can go much further in their investigations and conclusions than what is possible in a trial. "Indeed, the breadth and flexibility of a truth commission are its strength" (ibid:13). Truth about events should emerge in the process of a trial, but there can be limitations upon what will be revealed in court. For example can rules of evidence exclude important information (Hayner ibid:107). "A court is in no position to fill many of the functions of a truth commission" (Hayner ibid:108).

A truth commission is usually able to outline the full responsibility of the state and its various institutions that carried out repressive policies or atrocities, not only in the military and the police, but also in the judiciary as well (Hayner 2011:13). "Truth commissions' focus on victims, usually collecting thousands of testimonies, and honouring these truths in a public and officially sanctioned report, represents for many the first acknowledgement by any state body that their claims are credible and that the atrocities were wrong" (ibid:13).

According to Kaminisk, et.al (2006) most scholars believe transitional justice procedures contribute causally to reconciliation, citing cases where criminal trials, truth commission reports, or wide compensation payments to victims were followed by democratic stability. "However, the apparent causation may be spurious – perhaps the wide use of transitional justice procedures is just a signal of future success and not its cause" (Kaminski et al. 2006:300).

As showed in chapter 2, there were neither trials nor truth commissions for what happened during the war in Lebanon because the people in power had no interest in such. The general amnesty that was imposed was a way for the perpetrators to

be able to move on and remain in power without having to deal with the past. In Lebanon, “The magic formula of *la ghalib la maghlub* (‘no victor, no vanquished’) became the official justification for such a transition from war to peace” (Haugbolle 2010:70). However, at the international level over the past twenty years, this “model” of post-conflict resolution is far from the dominant trend, as truth and reconciliation committees have been implemented in various countries as formal means for dealing with former violence and oppression (ibid:70).

It is important to underline that people associate very different meanings to the word reconciliation (Becker 2005:167). It is also important to examine who is looking for this; if it is the perpetrators or the victims. For Becker (2005) reconciliation is the re-building of relationships and coming to terms with past acts and enemies, a process of acknowledging, remembering and learning from the past. Reconciliation is also voluntary and cannot be imposed (ibid:175). Haugbolle (2010) states that the “dominant trend in postconflict resolution has been to establish recognition before reconciliation (Haugbolle 2010:71). In this model the truth about what happened must be presented and debated in public hearings and discussions. As showed in chapter 2, this did not happen in Lebanon because of the amnesty law and the lack of interest in this by both the Lebanese politicians and Syria.

It is likely to believe that if the war in Lebanon had taken place or ended some years after the end of the Cold War, the aftermath of the war would have been different. The new ‘era of accountability’, however, became evident at a later stage. Even though it is not carried out in a consistent way, much has changed in the way the world community respond to atrocities. There were thus no tribunals for Lebanon in 1989, but after the assassinations in 2005 the UN took action.

#### **4.5 Locating the STL in the transitional justice framework**

The Special Tribunal for Lebanon was established through resolution 1757 by the United Nations' Security Council. The Special tribunal for Lebanon is a hybrid court, combining Lebanese Law and international standards. It is however the first court to exercise jurisdiction solely over domestic crimes, in comparison to the tribunals in Kosovo, East Timor, Cambodia and Sierra Leone which exercised jurisdiction over both international and national crimes (Raub 2009:1039). The jurisdiction of the tribunal is also the narrowest of any hybrid or ad hoc tribunal to date, as it will only have jurisdiction over those responsible for the attack of the former Prime minister Hariri and the other attacks connected with his assassination (ibid:1039).

The creators of the Special Tribunal for Lebanon benefitted from the experience of other hybrid tribunals, which emerged around the turn of the millennium. Most parts of the agreement between the United Nations and the Government of Lebanon regarding the establishment of the STL draws upon the agreements signed between the United Nations and the Governments of Cambodia and of Sierra Leone<sup>14</sup> (UN 2006a, paragraph 39). During the negotiations in early 2006 on the legal framework on the establishment of the tribunal, the delegations benefitted from the advice and experience from two former Presidents of the ICTY (UN 2006a, 1.3).

When drafting the rules of procedure and evidence for the STL, the judges took the Lebanese Code of Criminal Procedure and rules of other international tribunals into account. The judges could draw on the lessons learned from their experience in conducting international criminal proceedings (STL 2010a:1). The rules of procedure and evidence are guided by the Lebanese Code of Criminal Procedure and other "reference materials", referring to the Rules of Procedure and Evidence of other international criminal tribunals and courts such as the ICC, the ICTY and

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<sup>14</sup> The big exemptions are the provisions relating to the location of the seat and the funding mechanism (UN 2006a, paragraph 39).

the ICTR, and the mixed tribunals as the Special Court of Sierra Leona and the Extraordinary Chambers on the Courts of Cambodia (ibid:1).

Olga Kavran, chief of the STL Outreach office in Beirut remarks:

The STL has benefitted greatly from the fact that the Lebanese state, represented by its judicial experts, was at every stage of the negotiations. Which meant that Lebanese law was applied to the highest possible extent within the statute of the STL. That includes trials in absentia, because they are possible under Lebanese law. So, whereas the ICTY was something that was done completely from the outside, and the legal system applied was very foreign to the people in the former Yugoslavia, those of the STL are much more similar and much closer to the law of Lebanon (Kavran 2012 [Interview]).

According to Habib Nassar, which is head of the Middle East and North Africa division of the International Center for Transitional Justice in New York, the STL does not fit into the usual paradigm of transitional justice due to the narrowness of its mandate:

Transitional justice is by definition a comprehensive approach that deals with systematic and widespread violations. In a context such as Lebanon, where systematic violations such as war crimes and crimes against humanity have taken place but remain unaddressed, the STL has been criticized by some as being selective justice. This being said, Lebanon has witnessed since its independence dozens and dozens of political assassinations for which accountability is a necessity. Many of these assassinations were followed by violence and instability and left hundreds of victims. Lebanon's contemporary history has shown us that impunity has been the biggest threat to the country's stability (Interview with Nassar in Now Lebanon 2011).

For Nassar, accountability appears to be the only way to break the cycle of political killings in Lebanon. For Nassar it is regrettable that the establishment of the STL has not triggered some sort of national debate over the need to address accountability in Lebanon. Instead, the debates revolving around the STL has been focusing on "pro-" or "anti STL" rhetoric. Nassar also notes how the amnesia and denial since 1990 has not worked in preventing conflict in Lebanon. He believes transitional justice strategies could be beneficial to Lebanon (Habib Nassar in Now Lebanon 2011).

In a press release on March 1<sup>st</sup> 2010 the president of the tribunal, Antonio Cassese, said that the STL intends to strengthen the culture of accountability in Lebanon, and to “render justice, to provide truth and peace of mind for the victims as well as to contribute to reconciliation within Lebanese society” (STL 2010b).

The next chapter will look into the establishment, composition and mandate of the STL.

## **5. The Special Tribunal for Lebanon**

### **5.1 Bringing the tribunal into force**

The agreement between the United Nations and Lebanon on the establishment of a special tribunal was drafted in November 2006. This agreement, with the attached statutes, forms the legal basis for the establishment of the STL (UN 2006a, point 6.). However, as showed in chapter 2, the Lebanese authorities were unable to ratify the agreement, due to what the STL refers to as “institutional impediments” (STL 2010c:11).

After months of delay and the Lebanese parliament unable to ratify the agreement, the Security Council adopted resolution 1757 on May 30<sup>th</sup> 2007. This resolution brings the establishment of the tribunal into force by applying Chapter VII of the UN Charter. Under Chapter VII the Security Council is granted the power to determine “the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken (...) to maintain or restore international peace and security” (UN Charter article 39).

Chapter VII enables the UN to take military and nonmilitary action to restore international peace and security. There was thus a decision that creating the tribunal was crucial to international peace and security. By resorting to this, Resolution 1757 was thus possible to bring the agreement between UN and Lebanon with the attached Statute of the tribunal into force.

The co-sponsors of the initial 1757 resolution were the US, Britain, France, Belgium, Italy and Slovakia (Hazan 2010a:204). Ghana, Peru, Congo and Panama voted also in favour. 10 of the 15 member countries in the Security Council voted in favor of the resolution – the remaining five abstained from voting. The abstainers, Qatar, Indonesia, China, Russia and South Africa held that the STL exceeded its power by encroaching on the sovereignty of Lebanon (ibid:167). The

Indonesian representative illustrated this with the statement that there was “no legal ground for the Security Council to take over an issue that was domestic in nature” (UN 2007b).

The Russian delegation said that there was no basis for adopting the resolution under Chapter VII. When that measure had been invoked in order to establish the ICTY and the ICTR it was because both dealt with international crimes against humanity and genocide, which was not the case for Lebanon (UN 2007b).

The decision to establish the tribunal bypassed the Lebanese sovereignty. French representative to the Security Council meeting defended this decision by saying that since an internal solution had not been found in Lebanon, establishing the tribunal was an important decision for reasons of justice (UN 2007b). By applying Chapter VII and thus enforce the tribunal into existence “The council could be proud of not having resigned itself to the stalemate in Lebanon and that of having assumed its responsibility to help Lebanon” (UN 2007b).

The agreement between the UN and the Lebanese government declare that the tribunal shall function in accordance with the provisions of the Statute from June 10<sup>th</sup> 2007. The Statute outlines the jurisdiction of the tribunal, the applicable law, how the tribunal is composed and shall function, and rights of suspects, accused, defendants and victims. In accordance with Resolution 1757, the UN Secretary General made the necessary measures for the establishment of the tribunal, and appointed the Judges, the Prosecutor, the Head of the Defense office and the registrar (STL 2010c:11).

On March 1<sup>st</sup> 2009, the Tribunal was officially opened. It is located in Leidschendam in the Netherlands. The Rules of Procedure and evidence, which govern the structure and operation of the STL, was adopted by the judges three weeks after the opening.



## **5.2 The scope of the tribunal's jurisdiction**

Article 1 of the Statuettes divides the jurisdiction of the STL into three categories: i) the attack on February 14<sup>th</sup> 2005 resulting in the death and injury of Hariri and others ii) other attacks occurring between October 1<sup>st</sup> 2004 and December 12<sup>th</sup> 2005 of similar nature and gravity (If the court finds them connected) and iii) other attacks which may have occurred at any later date. However, for the tribunal to get jurisdiction in this third category requires a decision of the parties (UN and Lebanon) and the consent of the Security Council. Decisions in the Security Council can be vetoed by any of the permanent members. The implications of this are to be discussed in the analysis.

Initially, in resolution 1664 which requested the establishment of a tribunal, the intentions of the Security Council was to seek prosecution of those responsible for the single terrorist bombing on February 14<sup>th</sup> 2005. However, it became evident that the Hariri assassination was committed in a context of other attacks with similar characteristics in the months before and after. In the report of the Secretary General on the establishment of a special tribunal for Lebanon on November 15<sup>th</sup> 2006, the Secretary General states that the extension of the tribunals jurisdiction include, within a specified period, “other attacks that the tribunal might find to be connected to the Hariri assassination and similar to it in nature and gravity” (UN 2006a, part III, section a).

According to the report, the reasons for the inclusion of the other attacks are threefold: 1) potential links having emerged between the assassinations 2) the expansion of the mandate of the commission is an indication of interest from the Security Council in judicial accountability beyond the Rafik Hariri assassination and 3) “singling out one attack for prosecution in the context of other similar attacks is bound to create a perception of selective justice” (UN 2006a, point 12,c). The report concludes: “In the present circumstances, singling out for prosecution the assassination of Rafiq Hariri, while disregarding a score of other connected attacks could cast a serious doubt on the objectivity and impartiality of

the tribunal and lead to the perception of selective justice” (UN 2006a, point 18). Despite the concerns of the Secretary General, and despite the extension of the jurisdiction of the mandate, the perception of selective justice is a major challenge to the legitimacy of the tribunal, as will be showed in chapter 6.

### **5.3 Composition**

The Special Tribunal consists of four organs: *the chambers, the prosecutor, the registry* and *the defence office*. The UN Secretary General appoints both the prosecutor and the Registrar for a three-year term. The Registrar is also a UN staff member (UN 2007b).

The Registrar runs the registry, which is responsible for the administration and servicing of the Tribunal. The registry has a victims and witness unity which provides “measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses” (UN 2007b, Statutes, article 12, 4). The registry is under the authority of the President of the Special Tribunal.

The first President of the tribunal was Judge Antonio Cassesse. He retired due to poor health, and was succeeded by Judge David Baragwanath on October 10<sup>th</sup> 2011. The President of the Tribunal is also the presiding judge of the Appeals Chamber (UN 2007b, Statutes, article 8). In addition to his or hers judicial functions, the President of the Special Tribunal shall represent the Tribunal and be responsible for its effective functioning and the good administration of justice (STL 2012b). The president shall submit an annual report on the operation and activities of the Tribunal to the Secretary General and the Government of Lebanon. (UN 2007b, Statutes, article 10).

The chambers are composed of a Pre-Trial judge, a trial chamber and an appeals chamber. The Pre-Trial Chamber consists of one international Pre-Trial Judge. The Trial Chamber consists of three judges, one of them Lebanese and the two others international. In the Appeals Chamber there will be five judges; two

Lebanese and three international judges. There are also two alternate judges, one Lebanese and one international who can serve in addition to or act as replacements to the trial judges (STL 2012b).

The Statute of STL, Article 9, part 1 says: "The judges shall be persons of high moral character, impartiality and integrity, with extensive judicial experience. They shall be independent in the performance of their functions and shall not accept or seek instructions from any Government or any other source" (UN 2007b). Article 9 also says that the judges shall be appointed by the Secretary General for a three year period and can be eligible for reappointment for a further period. According to resolution 1757, the Lebanese judges would be appointed by the SG from a list of 12 persons presented by the Lebanese Government, upon the proposal of the Lebanese Supreme Council of the Judiciary. The international judges would be appointed by the Secretary General upon nominations forwarded by UN member states at the invitation of the SG, as well as competent persons (STL 2012b).

The Lebanese Government and the Secretary General would consult on the appointment of judges and the Secretary General will appoint judges upon the recommendation of a selection panel he has established. The selection panel should be composed of two judges currently sitting on or retired from an international tribunal, and the representative of the Secretary General (STL 2012b). The Secretary General is thus involved in the decision making of selecting the judges. This is not the procedure of for example the ICC, where the Judges are selected by the member countries of the court (Rome Statute article 36). Muhammad Mughraby, a Lebanese lawyer and human rights activist, is criticising the Secretary General's way of selecting the judges of the STL, a process he does not regard as transparent (Mughraby 2012 [interview]).

The prosecutor is responsible for the investigation and prosecution of persons responsible for the crimes falling within the jurisdiction of the tribunal. The prosecutor has the power to question suspects, victims and witnesses. He or she

collects evidence and can conduct on-site investigations. The Lebanese authorities shall assist the Prosecutor in these tasks, as appropriate. (UN 2007b, Statutes article 11,5) The first prosecutor was Daniel Bellemare, which did not seek to renew his term due to health reasons (YaLibnan 2011). Bellemare was replaced by Norman Farrell in March 2012.

It is important to differentiate between the prosecutor at STL and the UNIIIC, as they are two separate organs. The work of the investigative commission (UNIIIC) was handed over to the prosecutor at the STL. The prosecutor can choose to re-examine the work of the UNIIIC, as he or she might have other rules or procedures that should be followed.

The Prosecutor shall act independently as a separate organ of the Special Tribunal. The statute says that the prosecutor “(...) shall be of high moral character and possess the highest level of professional competence, have extensive experience in the conduct of investigations and prosecutions of criminal cases” (UN 2007b, Statutes article 11, 3.).

The Defence office’s role is to ensure the protection of the rights of the accused. A suspect or accused will be represented by an independent counsel that is supported and assisted by the Defence Office (STL 2012c).

The defence has the opportunity to run its own investigation, and to challenge the evidence submitted by the prosecution. The defence have the opportunity to ask witnesses and examine crime scenes. “They have the opportunity to even completely present new scenarios” said STL’s spokesperson Marten Youssef in an interview the Daily Star in February 2012 (El-Basha and Osgood 2012).

## 5.4 Dealing with crimes of terrorism

The Special Tribunal for Lebanon is the first international tribunal to deal with crimes of “terrorism”. Defining terrorism is not easy; it is a tricky definition that has divided lawyers and opinion holders for decades (Hazan 2010a:168). Security Council resolution 1757 regarded the assassination of Hariri a “terrorist crime”. However, the Security Council did not establish a definition of terrorism, but left that matter to the Lebanese law<sup>15</sup>. On February 16<sup>th</sup> 2011, the Appeals Chamber of the STL ruled that the Lebanese definition of terrorism would be applied. Simplified, the Lebanese law on crime of terrorism, article 314 (Ventura 2011) contain the following elements:

- (i) an intentional act, whether or not constituting an offence under other provisions of the Criminal Code, aimed at spreading terror;
- (ii) the use of a means “liable to create a public danger”, such as explosive devices, inflammable materials, toxic or corrosive products and infectious or microbial agents.

(STL 2011a)

The STL press release from February 16<sup>th</sup> 2011 says: “In its detailed examination the Appeals Chamber notes that courts in Lebanon have often taken a narrow approach to part (ii), by *only* applying the crime of terrorism to the means specifically listed in the code - which excludes for example attacks with guns. The Appeals Chamber has concluded that the Code suggests that the list of means of attack is illustrative, not exhaustive, and therefore the definition in the code may be more broadly interpreted by the STL” (STL 2011a).

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<sup>15</sup> Article 2 of the Statute says that Lebanese Criminal Code shall be applied to the prosecution and punishment. This is consistent with the hybrid, rather than international, nature of the court

## 5.5 Trials in absentia

In Lebanese civil law, trials where the accused is not present in the court, namely trials *in absentia* are admissible. The STL is however the first international tribunal to allow such trials.

Trials in absentia are permitted in countries like Belgium and Italy, but are strongly opposed in other countries such as the United States, where the right of the indictees to attend trial are enshrined in the Constitution. Trials in absentia are often (mis-)used by authoritarian systems to try and condemn political opponents abroad (STL 2010d:18-19). However, these reasons for being reluctant to this type of trial do not apply to international criminal trials, according to the tribunals president, Antonio Cassese in 2010, “In such trials, proceedings do not boil down to a contest between two parties. Rather, the main goal is the pursuit of truth and justice. Moreover, international trials are conducted under a spotlight – the close scrutiny of the whole international community – which would not tolerate any abuse, bias or unfair treatment” (STL 2010d:19).

Article 22 of the Statute outlines that trials in absentia can be conducted if the accused has waived his or hers right to be present, or has not been handed over to the tribunal or has absconded or cannot be found. The accused must be notified of the indictment, if not found, through the media or communication to the state of residence. If the accused suddenly turns up or gets found, he or she has the right to get a re-trial.

The European Court of Human Rights and the UN Human Rights Committee state that trials *in absentia* are consistent with the principle of fair justice, provided that a set of safeguards for the accused are employed. These safeguards are to be found in article 22(2) of the STL Statute (STL 2010d:18-19).

## 5.6 Current situation

Even though the court officially opened on March 1<sup>st</sup> 2009, there were no indictments until 2011. However, already in May 2009, the German news magazine Der Spiegel leaked information from “sources close to the tribunal” that the investigation had revealed that it was not Syria, but a special force of Hezbollah that were behind the executing of the Hariri attack (Follath 2009). In the summer of 2011 the first indictment were made public, naming, no longer anybody’s surprise, four Lebanese men who were all Hezbollah members, as suspects in the planning and executing of the attack on February 14<sup>th</sup> 2005.

The indictment and arrest warrants were handed over to the Lebanese authorities on June 30<sup>th</sup> 2011 (STL 2011b). Lebanese authorities were requested to hand over the four suspects to the tribunal. So far Lebanon has not handed them over. Hezbollah, now in the ruling coalition of the country, has repeatedly denounced the STL and refused to cooperate with it. Lebanon is however under obligation to cooperate. As a consequence of Lebanon’s inability to bring the suspects to Hague, the prosecutor of the STL had put forward a request that the Government of Lebanon should appear before the trial chamber to make an account for the steps taken to apprehend the four accused in Lebanon (STL 2012d, article 2).

The STL judges at the trial chamber rejected however this request, and based their decision on conducting trials *in absentia* on the many reports by the Lebanese Prosecutor General which describes the numerous attempts taken to secure the indictees appearance before the tribunal (STL 2012d, article 116). Also the report of the Secretary General on the implementation of SC Resolution 1559 from 2004 provided the trial chamber judges additional context in understanding the difficulties facing the Lebanese Prosecutor-General, taken into account the tense political, territorial and security situation prevailing in Lebanon. “These reports have thus helped the Trial Chamber in gaining an insight into the

limitations inherent in what the Government of Lebanon could add” (STL 2012d, article 117).

In February 2012 the decision was thus made to conduct trials *in absentia* as the trial chamber concluded that each of the four accused had absconded (STL 2012d). The decision on February 2012 was based on repetitive, but failed, attempts to localize the suspects. “All the evidence available to the Trial Chamber suggests that the four accused have not left Lebanon. All attempts by the Lebanese authorities to date to apprehend them have failed” (STL 2012d, article 105).

At the time of writing (April/May 2012), the trial proceedings are yet to begin. The proceedings became temporarily suspended as of March 2012, due to the Presidents decision to define the crime of "criminal association" (STL 2012e). The tribunals spokesperson Marten Youssef, said in February 2012 that the STL hoped to complete its mandate within the next three years. He was also quoted saying that “international justice takes time” (El-Basha and Osgood 2012).

The fact that the tribunal takes a lot of time was remarked negatively by some of the interviewees as will be shown in the following analysis.



## **6. Findings and Analysis: Local perceptions and key legitimacy challenges facing the STL**

This analysis is based on interviews conducted with a number of Lebanese civilians and public figures in February 2012 in addition to secondary sources, and is bound to answer the research question presented in the introduction; *What are the local perceptions and the main legitimacy challenges facing the STL at the start of the trial proceedings?*

As elaborated in the method chapter, the interviews presented here are not a part of a quantitative study and cannot be regarded as representative for the views and opinions of the Lebanese population in general. However, the qualitative interviews have provided useful information about certain perceptions held towards the tribunal, and some possible explanations behind these views. The viewpoints and challenges identified here must not be considered an exhaustive list, but rather an explanation of some of the perceptions and legitimacy challenges currently facing the tribunal.

Even though their opinions are not generalizable, the 13 respondents could be located in three groups: 1) Those in favour of the tribunal (May, Bob, Jamal, Hanin) all considered Syria, and to a certain extent Hezbollah, to be behind the assassinations in 2005. 2) Those who denounced the tribunal (Sarah, Dani, Huda, Nashabe, Mughraby) considered it a western tool for bringing down Hezbollah. Most of them held the opinion that Israel could be behind the Hariri-assassination, and that the STL did not investigate the option deliberately. 3) Members of the third group were not certain who was behind the assassination and tried to distance themselves from politics, (George, Adel, Mona, Pierre) but were nevertheless sceptical towards the intentions of the STL and the purpose of its existence. A full list of interviewees is found in appendix I.

The divide between the attitudes towards the tribunal of the first two groups reflects the same divide present in the political scene in Lebanon by the alliances of March 8<sup>th</sup> (Pro-Syria and anti-STL) and March 14<sup>th</sup> (Anti-Syria, pro STL).

None of the interviewees were indifferent to the tribunal. Even those who explicitly said they refrained from getting involved in politics and initially claimed they didn't know or care much about the tribunal, still turned out to have clear views and perceptions about the STL when asked. This indicates that the STL is a hot topic in Lebanon, even though the views and opinions held about it are extremely divided. During the interviews it also became evident that many of the civil society members lacked accurate knowledge and information about the tribunal. This represents a challenge for the objective understanding of the tribunal as a whole, as there spread a lot of misinformation about the tribunal from leaders with own political agendas.

The analysis starts by discussing if the STL can be perceived as a signal battling the impunity that long has prevailed in Lebanon. The analysis then identifies and presents six major challenges to the perception of legitimacy to the STL: The perception of selective justice, general mistrust in any system, accusations of politicization, the inconvenient neighbour Israel, the double standards of the international community and the perceived irrelevance of the tribunals work and mandate.

### **6.1 The STL as battling impunity**

All interviewees, regardless of their perceptions of the STL, confirmed that Lebanon had a problematic culture with impunity. George illustrated this common perception: "Nobody is punished for killing anyone in Lebanon" (George 2012 [interview]) and Bob remarked "In Lebanon we are getting used to that if you do something wrong, there is no consequence" (Bob 2012 [interview]).

Jamal Jarah, member of Parliament representing Hariri's political party Future Movement, and a proponent of the STL says:

We want to make everybody understand that you can't commit a crime and go home. There will be a court, you will be punished. We have to stop this plague in Lebanon. 220 assassinations, political assassinations since 1943, we can't live with it this way. If you opposed me: I will just put an explosive for you and you will die. And then I will go home as if nothing happened. We can't go on with this (Jamal Jarah 2012, [interview]).

Whether or not Jarah exaggerated the exact number of assassinations, a large number of civilian lives are also lost in the assassinations. This is serious and poses a grave security threat to the population in general. According to Knudsen (2010: 18), the mafia-style killing of political opponents is best understood as a political discourse of violence. Assassinations stop democratic processes, they cause political turmoil and increase political crises (ibid:18). "Because nobody steps forward to claim responsibility of the attacks, the psychological impact of the attacks is reinforced" (ibid:18).

In the string of assassinations throughout 2005, anchorwoman and TV-journalist May Chidiac was targeted on September 25<sup>th</sup> 2005 when a bomb exploded in her car. She survived the blast but was badly wounded. She lost an arm and a leg, and has so far undergone 35 surgeries. She is certain that the Syrian regime and Hezbollah is behind the attempt on her life (May Chidiac 2012 [interview]). Her case is amongst the cases that will fall under jurisdiction of the tribunal if the STL can find a connection with the Hariri attack. May is very supportive of the tribunal and trusts its work.

Even if they will never discover something related to my case, I will be more than satisfied if they can shed the light on any of the cases and point to the guilty persons and the regimes and parties, and say "they were behind what happened and they will have to pay the price and this impunity will have to stop". We cannot continue in a world where you can kill whoever you want, and escape from it because you are the most powerful. Impunity must stop in this part of the world (May Chidiac, [interview]).

May Chidiac is certain that most Lebanese are happy the STL exists. Considering the many unsolved assassinations she says: "Of course it is good. Not for something, for everything. It is healthy" (Chidiac [interview]). Druze Bob regards the STL as a positive institution where the Lebanese leaders can learn from their mistakes, as the STL makes sure there are consequences for their actions (Bob [interview]).

Jarah claims that there have been no assassinations since the tribunal was established (Jarah [interview]). Even though the string of assassinations stopped for a while after December 12<sup>th</sup> 2005, (when the Lebanese government requested the UN to establish a 'tribunal of international character' for Hariri assassination and expand the mandate of the UNIIIC to investigate the ongoing related attacks), assassinations targeting politicians and other eminent officials continued. Only three days after the tribunal came into force, on June 13<sup>th</sup> 2007, Member of Parliament Walid Eido was killed in a car bomb. On September 9<sup>th</sup> same year, Antoine Ghanem, another Member of Parliament, was killed by a car bomb. Army general Francious Elias Hajj was killed by a car bomb on December 12<sup>th</sup> 2007.

Top Lebanese investigator to the Hariri-case, Wissam Eid, was assassinated on January 25<sup>th</sup> 2008. Two large bombs went off in Tripoli in the late summer of 2008, resulting in several civilian casualties. A Druze politician, Saleh Aridi was assassinated in a car bomb September 10, 2008. In 2009 Kamal Medhat, deputy representative for PLO in Lebanon, was killed by a roadside bomb while visiting a refugee camp.

Leader of the Lebanese Forces, Samir Geagea, escaped what he called an assassination attempt in April 2012 when shots were fired at him at his residence. Regarding the attack he was quoted saying "We are in front of a real series of crimes. Some thought that the series of assassinations ended after the Doha Accord but this is not the case" (El-Basha 2012).

Muhammad Mughraby confirms that Lebanon has an atmosphere of impunity. "But if you catch the killers of Hariri, and leave everybody else untouched, you

wouldn't make any contribution to the issue of justice in Lebanon" (Mughraby 2012 [interview]). Because of this the STL is not a signal of a new culture or a new start in Lebanon of battling the impunity. Mughraby says: "No! It is not a signal! The signal is: Hariri was our friend. So if you kill him it is not okay. But if you kill someone else it is okay" (Mughraby [interview])

## **6.2 The perception of selective justice**

The most simple, most elementary right that every society should ensure, is the right to justice. And that means equality before the law. And we don't have equality before the law. And this STL makes the case of inequality much worse. Much worse.

(Muhamad Mughraby, [interview]).

Muhammad Mughraby, a lawyer for nearly 50 years, considers the STL a grave example of selective justice. He asked "Is Hariri more valuable as a human being than me? Is he more valuable Lebanese than me? Or than the man on the street? No!" (Mughraby [interview]). Mughraby emphasised that "Justice has to be equal and has to be applied equally (...) if justice is selective, then it is not justice"(Mughraby [interview]).

The perception of selective justice was a source of concern in the report of the Secretary General on the establishment of a special tribunal for Lebanon. The report from November 15<sup>th</sup> 2006 states:

In the present circumstances, singling out for prosecution the assassination of Rafiq Hariri, while disregarding a score of other connected attacks<sup>16</sup> could cast a serious doubt on the objectivity and impartiality of the tribunal and lead to the perception of selective justice (UN 2006a, point 18).

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<sup>16</sup> The "score of other connected attacks" refer to the assassinations and assassination attempts that occurred in 2005, and the attempt on Marwan Hamade in 2004, as described in chapter 2.

Because of this concern, the mandate of the tribunal was extended to include “other attacks that occurred in Lebanon between 1 October 2004 and 12 December 2005 (...) of a nature and gravity similar to the attack of 14 February 2005” (UN 2007a, article 1).

Contrary to the intentions of avoiding “the perception of selective justice”, the perception of selective justice seems to be a major challenge to the impartiality and legitimacy of the tribunal.

The majority of the interviewees considered it deeply unfair that there was an international, expensive court set up only for a few crimes in stark contrast to the impunity that had followed the many crimes and assassinations committed in Lebanon during and after the civil war. Some interviewees seemed also not to know or ignore the fact that the mandate of the tribunal also includes similar attacks occurring between October 1<sup>st</sup> 2004 to December 12<sup>th</sup> 2005. Even if they were aware or reminded of this fact, many of the interviewees insisted that still, the tribunal was mainly and mostly for Hariri. Mona illustrated this view: “There are like 14 people who died that year. But mostly, it is for Hariri. This is the way it is done. And the others are mosquitoes” (Mona 2012 [interview]).

This view is not difficult to understand as both the UNIIIC and the proposed tribunal intentionally were planned to deal only with the attack on February 14<sup>th</sup> 2005. The STL is often referred to as the “Hariri-tribunal” by various Arab and Western media. The indictments released until now all relate to the Hariri assassination. Mona remarks “Of course [it is] 100% unfair. It is like Hariri has more value than the others. Why? Because he had more money? Doesn’t make sense” (Mona [interview]).

Omar Nashabe states: “In Lebanon, justice is always selective”. Being an editor of the justice section in the Lebanese newspaper Al-Akhbar, he is openly very critical to the STL and its selective justice. He contrasts the efforts of the international community to find the killers of Hariri to the 17 000 Lebanese who are still missing from the civil war:

17 000 people disappeared during the civil war. I know women whose husbands went to buy vegetables and they never came back. Since the 80's. And they are still waiting. I know a young man whose father disappeared all of the sudden and never came back. He wants to see his father, he wants to know if his father is alive or dead. What? Because one billionaire was killed this makes him a priority? These are moral principles! Morality. We bring in one billionaire. We give him an international tribunal. And we have to pay money, and blood, and sovereignty and honour! For what? For only one tribunal for one man? Not that he doesn't deserve access to justice. But there is no moral basis that would make him deserve it more than the others." (Nashabe [interview]).

Other interviewees were not that provoked by the perception of selective justice. In order to battle the impunity in Lebanon, George thinks "It is always better to do one thing, than to do nothing. Right?" (George 2012 [interview]).

Bob doesn't think it is fair that "only" Hariri gets a trial, but he is not provoked by this. He thinks this will change, and considers the tribunal to be helpful to Lebanon (Bob, interview).

Olga Kavran at the STL Outreach office in Beirut emphasize that the Hariri-case is not the only case under the tribunals scrutiny. "And I don't think we should be forgetting the other 231 people who were also injured in the attack. So speaking about one man would be entirely wrong" (Kavran [interview]).

Hanin Ghaddar, editor of the online newspaper NowLebanon, is positive towards the tribunal, but admits it is not fair that Hariri gets a trial, contrasted to all those who were assassinated before, without legal follow-ups. "All the people that died, like Mufti Khaled, Kamal Jumblatt, what about all these people. But at the same time, we say, okay that was a different era, it is too late now to gather evidence. (...) But you feel like, what about these people?" (Ghaddar 2012 [interview]).

### 6.3 General mistrust in any system

All interviewees from the civil society displayed frustration over the corruption and a strong mistrust in the political system and in Lebanese politicians. Statements like “I hate all politicians in Lebanon” and “Lebanese politicians are so stupid” came up in almost every interview.

Haugbolle (2010) has identified common slogans such as *ma bidna al-siyassa* (we don’t want politics) or *irifna al-siyassa* (we have become disgusted with politics) which he claims signal withdrawal and resignation regarding the established political system, but also alternative social mobilization (Haugbolle 2010:236-237). Several of the interviewees, Pierre, Sarah, Adel, George and Mona, almost proudly stated that they were neutral or “above” politics. They had no trust in politicians and leaders. Despite, or perhaps because of this, they displayed a high degree of socio-political awareness.

Pierre is critical that many Lebanese people follow their leaders blindly. “Whatever the politicians and leaders say, people go with it. If the leaders say it [the STL] is good, they automatically believe that it is a good thing. If the leaders say it is a bad thing, they automatically believe it is a bad thing” (Pierre 2012 [interview]).

Pierre finds it strange how all supporters of a certain party can form one single opinion about a certain incident:

The funny part is that all the supporters of March 8<sup>th</sup>, think it is Israel, and all the other supporters think it is Syria or Hezbollah. Which is funny! Because all the supporters of this party are of one religion, and the opposite are of a second religion. So it is preposterous how people from one religion... like it is [written] in the Bible or Koran for those people (Pierre, [interview]).

Dani, a student said “There is not much we can do. It is a very corrupt society, a very corrupt system, a very corrupt government” (Dani 2012 [interview]).



Adel considers the warlords-turned-politicians to be the real problem in Lebanon, not who killed Hariri or other politicians. “The real problems are the warlords who asked for the court. How do you want me to believe in a court that was ordered by a murderer?” (Adel 2012 [interview]). Adel does not consider the STL to have an impact in Lebanon because those who asked for the court “know that the court will do nothing.” (Adel [interview]). Dani shares the same view: “Especially in Lebanon, I don’t think the tribunals will serve their cause. People always find ways around it” (Dani [interview]).

Pierre also don’t trust the Lebanese leaders to be able to deal justly with an eventual verdict from the court:

If the Lebanese leaders were responsible, then it [the STL] definitely is a good thing. Because everything that leads to justice is a good thing. However, the Lebanese people will not treat it in a very logical, educated, civilized, responsible way. That is why I believe it will harm the country more than it will do good to the country (Pierre [interview]).

For some of the interviewees the mistrust in the political system seemed to have infected into a mistrust of the international system in general. Pierre is not sure how credible the STL is. “We all know politics are corrupted, in Lebanon and outside Lebanon. So nobody knows how it [the STL] is being influenced in Lebanon or outside Lebanon” (Pierre [interview]).

Adel does not think the tribunal will ever uncover the truth. “[The STL] is a UN-thing. So it has its own agenda and own corruption. I don’t believe in people. So for me, you can buy people. In general, not just in this situation” (Adel [interview]).

The general mistrust against intentions and institutions is also evident considering the investigation. Both Nashabe and Mughraby are critical to the investigation process, the role of foreign investigators, which operates in a foreign language, and the dubious role of intelligence officers. “The investigators who came in all have the background from police, secret service and so on. People

in Lebanon in general have no confidence in the system of investigation” (Mughraby [interview]). One of the reasons for mistrust in both the investigation and the tribunal is fears and accusations that it is politicized. This is a major challenge I will give a detailed account for under point 6.4.

Many interviewees considered the STL to take too much time, which caused them to be further sceptical. Even those supportive of the tribunal remarked that it should have been more efficient. Hanin Ghaddar is worried about the fact that the tribunal is taking a lot of time will undermine the preventive effect “if this goes on and on and we do not reach the truth for another 10 years” (Ghaddar [interview]). She adds that the Lebanese are impatient:

People don’t understand that it takes time. Lebanese people don’t know anything about the judicial system. Especially not the international. They don’t understand that people have to check and double check and triple check, the protections of witnesses and the whole thing. [They think it is] just convict, try and that’s it. Like, we know who did it. Stop playing. (Ghaddar [interview]). .

Even though George regards the selecting of the Hariri case for an international tribunal a political decision, he is assured by the work of the STL so far and has confidence that the work done so far is done independently. He has the impression that the work of the STL seems well done and organized. “What they said [regarding the indictment] is logical, the story they said is logical. So, yes, I am convinced by the story so far, but I want to see the rest of the story” (George [interview]).

May Chidiac comments on Hezbollah and the accused who are denouncing the tribunal:

You cannot say in advance that it is not functioning properly! (...) They have to go and defend themselves in front of the tribunal! You cannot live in a world...we don’t live in a jungle! If there is a tribunal, if there is a court, you have your lawyers and you go and defend yourself! Bring proofs to say “no, I am not the guilty!” You cannot say from the beginning “I don’t accept it, I don’t accept it”. Otherwise, the system, the judicial system, in the whole world, will be nonsense. And it will be the law of the jungle. The principle is

wrong. You have to accept tribunals. Especially if it is an international one! (Chidiac [interview]). .

Talking about the context of impunity and the STL as a signal of ending impunity, George admits he is a bit happy that there finally is an international tribunal that will aim at punishing the perpetrators:

I am a bit happy. But I am not sure if I can trust it, all the way. Because let's face it: It is a bit political. Why isn't there tribunals for other acts before? Why now? (...) So what is happening here is nice, yes, but why selecting only this? You see? So it is a political decision (George [interview]).

#### **6.4 Accusations of politicization**

Members of the Security Council are not gonna think about peace and justice, they are gonna think about how they can get their interest through. (...) Political interest may not be peace and love and security and Woodstock. Now we got some other things going on (Omar Nashabe [interview]).

For Omar Nashabe it is evident that the creation of STL was a political creation as it was created by the Security Council and the security council is a political body. Also as George indicated above, many interviewees held the perception that the tribunal was the result of a political decision and was thus politicized. Politicization means causing an event or an activity to become political in character (New Oxford American Dictionary 2005). The most common held view was that the tribunal is created only for political purposes in order to discredit Syria and to disarm Hezbollah. Huda, a Shiite woman from South-Beirut illustrates a common view: "Everybody knows the STL is politicized. The point is that it is the US and Israel that take care of it, so it is politicized." (Huda 2012 [interview]).

As shown in chapter 5, the tribunal was enforced on Lebanon under Chapter VII of the UN Charter, through resolution 1757, as the political stalemate hindered the Lebanese government to ratify the agreement over the tribunal. One part of

the Lebanese Parliament welcomed the tribunal and the other part opposed it. According to Hazan (2010a: 167) the makers, predominantly the US and France, of the Special Tribunal for Lebanon had political objectives, in the same way as there were political objectives for creation of the Iraqi Special Tribunal.

[The STL's] supporters, members of the pro-Western coalition of 14 March led by Saad Hariri and Walid Jumblatt, saw in it an instrument of protection against attempts at destabilization coming from Damascus and as a means to regain Lebanese sovereignty in disposing of Syrian guardianship. They received strong support from the Security Council of the French government and the Bush Administration, which was then in favor of "regime change". At the time, Syria figured on the lists of states sponsoring terrorism (Hazan 2010a: 167).

The establishment of the STL according to Hazan (2010b) "was instrumental in order to target the Syrian regime and to limit its interference in Lebanon. Paris and Washington perceived the Assad regime as being the mastermind of these murders, and more generally hostile to French and U.S. interests"(Hazan 2010b:59).

For Muhammed Mughraby it is also clear that "The purpose of killing Hariri is to blame the murder on Syria and Hezbollah. So the STL is a political tool" (Mughraby [interview]). In an article from 2009 he further elaborates:

The Hariri Tribunal is openly viewed by Syria's Lebanese adversaries, formerly its allies, as the vehicle to indict and bring down the entire Syrian regime. This approach may also be favored by the United States and France, which aim at obtaining major regional political concessions from the Syrian leadership. If true, it turns the proposed court into a potent political and strategic instrument (Mughraby 2009:38).

Sarah, who participated in 2005 in the March 14<sup>th</sup> demonstration, has started to believe that the tribunal was something that was planned a long time before the assassination of Hariri, in order to bring down Hezbollah:

It is not because the demonstrations that we had the tribunal. See? It was planned already. And it was a whole lie for the people. Even me, I was with them [March 14<sup>th</sup>], but after, when I felt that it was a lie, that's why I begin to see another way. Especially after

the war in 2006. After the war, we began to understand that it was a whole lie, and the tribunal was something that was planned before (Sarah 2012 [interview]).

Adel believes the tribunal was established for many reasons: “It is a way to get rid of Hezbollah, it is a way to protect Israel, it is a way to make changes in Syria, it is a way of controlling Lebanon more” (Adel [interview]). However, Adel is certain that if the ongoing revolution<sup>17</sup>, “the Arab spring”, continues in the Arab world, the STL will not be needed any more. The countries that established the STL, in his opinion led by the US and Israel, will have bigger problems, and will not have the need to have more control in Lebanon (Adel [interview]).

Dani is also concerned about the motive of the tribunal:

It doesn't have to be that they [STL] are not neutral, but the whole idea of the tribunal is not used neutrally. It is not used as they just want to find justice. They want to use the court to accuse Hezbollah... then they have the leverage to force international attention so Hezbollah can withdraw its weapons (Dani [interview]). .

Pierre Hazan argues that after the attacks on September 11<sup>th</sup> 2001, and the Bush administrations subsequent “war on terror”, the ideological vision of transitional justice has been shattered. He shows how the so-called war on terror has used transitional justice mechanisms when they fitted strategic goals, not considering the local priorities of the populations affected by the violence (Hazan, 2010b:49). Jamal Jarah argues that the court hasn't begun its work yet “So you can't say it is politicized”. He further states:

They are saying that the investigation is politicized: okay! They will go to the court where we will have this proof, this proof, this proof. In the court you can debate the proofs. (...) In the court you have the right to debate, to oppose, to give proofs that contradict with the investigation committee. And this gives us a kind of relief, because

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<sup>17</sup> The popular uprisings in the Arab world had lasted more than a year at the time of the interview. In February 2012 reports of severe fighting in Syria were daily broadcasted in Lebanon. Possible consequences of the uprising in Syria could affect Lebanon, and perhaps the work of the tribunal if for example Syrians officials abscond the regime. This aspect falls however out of the scope of this thesis.

we don't want to accuse someone just because we like to accuse him. We want the truth, and that truth will be clear through the court (Jarah, [interview]).

Olga Kavran from the STL Outreach Office could assure that the trial itself will not be politicized in the sense that there is no room for politics in the courtroom. She compared this to the ICTY where Milosevic tried to give political speeches, which led him nowhere.

Give us evidence, no [political] speech. There is no room for that in the courtroom. The process is transparent. Because the rules and the statutes provide for a transparent process. The judgement, whatever it is (... ) will be a detailed document, which will explain exactly what the evidence was, what evidence the judges took into consideration, what evidence they didn't find credible. So, in that respect I have every confidence that the process will follow the standards (Kavran [interview]).

The politicization outside of the courtroom, meaning politicians talking about the evidence, people talking about the evidence in the media, expressing their opinions and their political opinions etc., is something that is bound to happen and cannot be stopped. However, Kavran could ensure that this is not something the judges will, or can, base their judgement on. The judges have to argue and explain what they are basing their judgement on, and that can be nothing else than what is introduced in the courtroom as a part of the trial proceedings (Olga Kavran, [interview]). Because of this:

Speaking to the media is pointless as far as the criminal proceedings are concerned. For anybody that wants to introduce anything new to the process they can easily do so through the correct procedure" (Olga Kavran, [interview]).

Hezbollah refuse to cooperate with the court. On August 9, 2010, the Secretary General of Hezbollah Hassan Nasrallah held a press conference where he showed footage from Israeli spy planes covering routes used by Hariri, including the route he took when he was assassinated (Barada 2010). Nasrallah has repeatedly maintained that Israel was involved in the murder of Hariri. He claims to have evidence that Israeli agents were present at the murder scene one day before the murder (Kessler 2011). Nasrallah stated however that Hezbollah would not hand

over the material to the tribunal investigating Mr. Hariri's death (Barada 2010). On a press conference July 2nd 2011 Nasrallah insisted that the STL was dominated by America and Israel and called its indictment "an aggression against us and our holy warriors (...) the tribunal is part of the war against us, because we are leading a confrontation against Israel" (Haaretz 2011).

No one in the STL [Special Tribunal for Lebanon] even asked the Israelis anything. (...) Instead of investigating the Israelis, [the STL] gathered information from them. Imagine that Israel – instead of being under investigation – has become a source of information and [the tribunal] is cooperating with it (Hassan Nasrallah, quoted in Kessler 2011).

Mona had heard many rumours that Hezbollah was going to be accused because this benefits the US and Israel.

That's the thing they say. That they are doing this to accuse Hezbollah, so that it is legitimate for the US to come and do to us what they did to Iraq. And to Afghanistan. This is what people say. So, regardless of the evidence, this is what they are going to do. They are going to fake things, just to accuse Hezbollah (Mona [interview]).

Sarah thinks the existence of Hezbollah is reason that the tribunal was established. "I think everything that happened, it is because there is a resistance against Israel. I think that is the main subject" (Sarah [interview]). Sarah does not believe the tribunal will find the truth, as it is just a part of a bigger plan.

If Hariri was not killed, and there was not a court for Hariri, I think there will be another plan to do something. I think everything is for the benefit of Israel, what is happening. They choose Hariri this time (Sarah [interview]).

## **6.5 The inconvenient neighbour Israel**

Everything that happens is to protect the Jews in Israel (Adel [interview]).

For Nashabe one of the biggest problems with the STL is that it is all Western, "belonging to a specific camp in the West that supports Israel. (...) They [France and United States] support Israel more than anyone else" [interview]. Nashabe

pointed to the fact that any crime that occurred after December 12<sup>th</sup> 2005 could only be added to the jurisdiction of the tribunal if it has the consent of the Security Council (Nashabe, [interview]). The five permanent members (US, France, UK, China and Russia) can veto any decision in the Security Council. A UN official involved in the negotiations over the jurisdiction of the STL indicated in an interview with Law Professor John P. Cerone that

These jurisdictional limitations were included at the behest of the United States to ensure that the Tribunal could not take jurisdiction over the conduct of Israeli forces during the 2006 conflict between Israel and Hezbollah/Lebanon (Cerone 2009:179).

For many of the interviewees it was clear that the STL was established in order to target Syria and Hezbollah. Not all interviewees felt they knew who was behind the assassination, but some of them (Dani, Sarah and Mughraby) indicated that Israel could have been behind the assassination of Hariri. Even more of the interviewees (Dani, Huda, Mona, Sarah, Nashabe, Mughrbay) were frustrated over that it seems like Israel is not, and was not, investigated by the STL or its predecessor UNIIC. Even though most of the investigation is secret, they were confident that Israel's role was never scrutinized.

Muhamad Mughraby claims that Israel is the guilty party in most of the political assassinations in Lebanon. "Israel should be the prime suspect [in the Hariri case] because Israel do assassinations as state policy. Also the US does it as a state policy, they call it targeted assassinations" (Mughraby [interview]).

Jamal Jarah is certain that all possibilities were taken into consideration by the investigators, but proof led to Hezbollah being behind the assassination. "We know the Syrians and Hezbollah are professionals in killings" (Jarah [interview]). May Chidiac is certain that her assassination attempt was the work of the Syrian regime with the help of Hezbollah, not Israel. When being presented with the views of those who think Israel is behind, she makes fun of it by saying ironically:

"I love the US and Israel so much and I hate the Syrian that much, I did it to myself, just to accuse the Syrians". Are they stupid? We committed suicide?! Was I so bothering to the



Israelis?! Me, May Chidiac? Or Hariri, was he so bothering? Or Marwan Hamade? This is a comedy! Or Gebran Tueini? Khalas! If they want, not to admit, you know. When you admit, it doesn't mean that all the Shia did it! But at least they have to recognize that there are some fractions who were behind these killings! (Chidiac [interview]).

The suspicion held towards Israel is however not difficult to understand. Israel has indeed proved to be a difficult neighbour to Lebanon by invading the country twice, in 1978 and in 1982, the latter resulted in Israeli troops deployed in Southern Lebanon until year 2000. The war between Hezbollah and Israel in the summer of 2006 damaged Lebanon substantially. During the 33 day long war, Israel targeted civilian and non-military targets and caused extensive damage to Lebanon's infrastructure<sup>18</sup> (Amnesty 2006:25). According to Amnesty International the attacks seemed to have been a form of "collective punishment on Lebanon's people in order to induce the Lebanese government to turn against Hizbullah, as well as harming Hizbullah's military capability" (ibid:24).

On July 30<sup>th</sup> 2006 Israel bombed a UN compound in the village of Qana killing at least 28 civilians who had sought refuge in the compound (Amnesty:17). The incident led to Israel apologizing to the United Nations for what they said was an "operational level mistake". Israel refused however to conduct a joint investigation with the UN<sup>19</sup> (Amnesty 2006:19). According to Amnesty International (2006):

The Israeli authorities maintain that they carry out investigations into incidents, but these investigations fail to conform to international standards, including the obligation of transparency. For example, they have never disclosed the methods of such investigations – whether in fact they differ, for example, from routine battlefield

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<sup>18</sup> Bridges and roads were destroyed. For example Israel bombed the Jiyeh power station on 13th and 15th of July. This led to an environmental catastrophe, spilling between 10 000 and 15 000 tons of fuel oil into the sea. Further 55 000 ton fuel burned up, sending thick smoke and drops of oil across a large area. (Amnesty 2006: 25)

<sup>19</sup> Following the UN's Board of Inquiry Investigation into the incident, the UN Secretary-General's Office stated that the Board was not provided access to the operational or tactical level IDF (Israeli Defence Forces) involved in the incident and was therefore unable to determine why the attacks on the UN position were not halted, "despite repeated demarches to the Israeli authorities from UN personnel, both in the field and at Headquarters" (UN 2006c).

debriefings which in no way can amount to a proper investigation – and to which incidents they relate. (Amnesty 2006:66)

The Amnesty report concludes that both Hezbollah and Israel committed serious violations of international humanitarian law without any accountability in the war in 2006 (Amnesty 2006:65). The conduct of Israel in the summer of 2006 gave however the Lebanese a renewed and probably even more hostile impression of the neighbouring country. With series of Israelis spies being revealed, suspicion has grown over what the Israelis are capable of doing. Omar Nashabe recalls: “In 2006 they killed 1191 people, among them United Nations soldiers (...) So we have big problems with Israel. How can you make justice for one assassination and at the same time you have so many crimes?” (Nashabe [interview]).

## **6.6 The double standards of the international community**

How can they trust [the STL], when, amidst all the crimes that Israel committed in Lebanon, the international justice decides to take measures against the resistance movement against Israel, but never took any measures against Israel. (Nashabe [interview]).

Despite the war-crimes committed by both sides in 2006 (as reported by Amnesty 2006), there is no Security Council resolution made towards Israeli accountability.

Even though Nashabe is not certain Israel was behind the Hariri-assassination, the frustration over lack of initiative towards Israel is clear. “I am not saying they [Israelis] did it, I am saying that at least one should look at them!” (Nashabe [interview]).

I will tell you. If they will interview, if they will ask for one Israeli to appear in the court. One. Then I will change my whole opinion about the tribunal. Then I would say, ‘hey, it is fair’. But all I want then is that if they treat the investigation in a fair way, then they

would have to listen to the Israelis, they will have to bring them in. The Israelis will have to sign a cooperation agreement. They will have to be investigated by it. (Nashabe [interview]).

Nashabe lists a range of international enquiries where Israel has refused to cooperate or which resulted in no judicial follow-up:

Haven't you seen the previous examples? I will list them for you: The massacre of Yenin in 2002. The UN sent a fact finding mission to Yenin. (...) What was the result for that? The International Court of Justice gave a professional opinion on the Apartheid Wall, the segregation wall. What was the result of that? Turkey and Greece asked for an international investigation for those who were slaughtered by the Israeli army in the Flotilla. What was the result for that? Goldstone commission. (...) What was the follow up? Did the Israelis cooperate? (Nashabe [interview]). .

Nashabe concludes: "Do you think in your wildest imagination that the Israelis will cooperate with an international enquiry?" (Nashabe [interview]).

Mona is of the same opinion: "But I really don't believe someone in The Hague will accuse Israel. (...) it won't work" (Mona [interview]).

If it was fair.. if it was a fair world, I think Israel wouldn't have been so powerful in the UN. And the Palestinians so screwed up. It is not a fair world. This is why I don't trust. Because UN don't stick to their principles. Isn't the UN supposed to stop the wars and stuff? This is what I know. And how do they let the Israel-Palestinian situation? A lot of countries don't even recognise Palestine. So I don't believe in the UN, I think it is just waste. (...) The US has the veto there. So if the US has veto there, it means that Israel has more stock if you want. So it is unfair " (Mona [interview]). .

Mughraby states: "Nobody is really interested in the issue of human rights. They want to use it [STL] as a tool only, as a political tool" (Mughraby, interview). Mughraby says that foreign powers and especially Europe could have encouraged Lebanon in establishing the rule of law, but "Europe has decided not to do that, because it has no interest in justice, it is interested in short term political advantage" (Mughraby [interview]). The short term political advantages are

ensuring the global, strategic policies of the great powers in the region, which are, in summary, oil and Israel, according to Mughraby (Mughraby [interview]).

Mughraby argues that if the international community is interested in ending impunity in Lebanon, the only way to do that is to assist Lebanon in reforming its justice system, so that it delivers equal justice for all Lebanese (Mughraby [interview]). Mughraby (2009:22) also shows how the STL is projected to cost \$ 40 million per annum, while in comparison the annual budget for the entire Lebanese justice system is barely \$30 million.

The regime doesn't function for me, doesn't function for you, doesn't function for the man on the street, so it will not function for Hariri. Well, how to resolve this problem? We set up one highly expensive court for one case. What solution?! (Mughraby [interview]).

Nashabe also points at the double standards showed by the international community, especially the United States:

So let's not be naive, and stupid and silly by saying that there is a someone who believes in justice and human rights and who actually is ready to put the justice and human rights before their political interests. (...) The United States, France and Great Britain and the other nations in the Security Council decided to actually support the creation of this tribunal for political purposes. (...) If they cared for human rights and justice, the Americans wouldn't have made the Abu Gharib and world not have still Guantanamo open until today where human beings are treated worse than the animals (Nashabe [interview]).

Hazan (2010b) shows how the United States and France were eager to get resolution 1757 through and ask for accountability of the assassins of Hariri. Then Hazan points to the fact that:

But no country – including France and the United States – has ever denounced the amnesty laws that granted impunity to the Lebanese warlords responsible for some horrendous massacres committed during the civil war (1975 – 91), which claimed 200,000 lives, warlords who (at least a number of them) are still active politically today (Hazan 2010b: 59).

The actual interest of accountability can also be debated by the narrow mandate of the tribunal and the fact that neither Israel nor Hezbollah were held accountable for any of the violations of international law and war crimes committed in 2006 (Amnesty 2006). The report of the Secretary General upon the creation of the STL is written just a few months after the July 2006 war, and can be read ironically as he justifies the extension of the mandate to include other attacks in 2005, because of fears of “perception of selective justice”.

Haugbolle (2009) shows how the war on Iraq has resulted in very little trust in the West as morally superior:

Human rights emerged in the 1990's as a global secular religion that professed belief in the ability of the international community to enforce a human rights consensus on 'crimes against humanity' all over the world (Meister, 2002: 91). In large parts of the world, and particularly in the Arab Middle East, this discourse has broken down spectacularly as a result of the war in Iraq. Today there is very little trust in the West as the morally superior arbitrator of human rights (Haugbolle 2009: 124).

Mughraby summarizes his view:

You can say that I am outraged by the STL. I am outraged by the conduct of great powers who apply standards outside their political borders which are different from the standards they call for within their own political borders. We are all equal. This is the whole point of human rights (Mughraby [interview]).

## **6.7 Growing irrelevance**

I don't know what the truth will bring to Lebanon. I don't care who killed him. (Dani [interview]).

Some of the interviewees seemed not to be interested in what the tribunal could reveal in court. The work of the tribunal seemed to hold no relevance for those that were sceptical to it or didn't trust it. For Mughraby the tribunal is totally useless: “Even if it meets tomorrow and find some people guilty of the murder of Mr. Hariri and convicts them, .. So what?! It will not change the

reality of Lebanon” (Mughraby [interview]).

The fact that the tribunal takes a lot of time seem to have strengthened the perception of irrelevance. Pierre thinks the tribunal should have started the proceedings a lot earlier:

It is seven years now? This [the tribunal] should have happened the same exact year that Hariri died. Back then people weren't this separated. There wasn't March 14th and 8th. Back then, everybody were sad for his death. Everybody. All the religions. Everybody was shocked and sad with his death. And a trial back then, would have been perfect. Right now the trial is working for many causes. (Pierre [interview]).

Dani shares the same view:

When it first started we thought it would be over quickly, it would be just an investigation for a couple of ..for the year, and that is it. But, since then it has been used more as a political tool more than an actual tribunal. (...) It happened seven years ago, you should move on. We have wasted enough time, money and resources on that. We have bigger problems (Dani [interview]).

Mona is also critical of the large sums of money spent on the STL:

How much are we paying to the STL every year? Why can't we fix the electricity with this money? This is money badly spent in my opinion! (...) STL will not bring anything positive. Electricity, yes, it is positive! Why doesn't Saad Hariri pay for the trial with his own money? (...) I'd rather have electricity than know who killed Hariri because I don't care. Really. (Mona [interview]).

Bob on the other hand, is one of those that don't consider the tribunal to be useless, rather, he considers it to be beneficial for the Lebanese nation:

Actually it [the STL] is national thing. Most Lebanese will think about it as a religious. But for my opinion I think it is a national thing. If Rafik Hariri, whether he is Christian or Muslim, if he died they should find the killer. If the killer has any religion, they should punish him! I don't think it has a religious background. (...) If they found out it was a Druze person who killed him, then let him go to jail. That is the justice. We are with justice (Bob [interview]).

Mona is of the opinion that the STL will take Lebanon to a new civil war.

“That’s why I don’t like it. Khalas, I prefer not to know who killed the guy then doing a civil war trying to know the truth, and everyone.. a lot of people are gonna die for nothing” (Mona [interview]). Pierre is of the same understanding:

I am not sure if it [that Hezbollah is guilty] is true or not, but I believe that if it is true, it might create war in the country, so I don’t need to, I don’t want to find the truth, because I care for the well-being for the country. I do like [Rafik] Hariri, he is a great person: But if he is a great person, then he doesn’t want the country to be destroyed over his death as well (Pierre, [interview]).

For Jamal Jarah the objective is clear: “We are not looking for punishing Shiites or Syrian people, we are looking to punish those who committed the crime! And this is our right, and the right of those who died” (Jarah [interview]).

Jarah is a representative of Rafik Hariri’s political party “Future Movement”, a party that is using slogans of “the truth”, *Al-Haqiqa*, in its marketing campaigns. University professor Karim Makdissi is quoted saying that the popular support and enthusiasm displayed in the demonstrations at Martyrs square in 2005 has been taken over by political sharks who have used their idealism to serve their own purposes (Blanford 2006: 167). This could be what Mona refers to when she claims the branding of *Al-Haqiqa* has become an exaggeration. She refers to the Future Movement and the March 14<sup>th</sup> posters with Rafik Hariri pictured in a blue sky with the text “we have to know the truth”. She says: “No, we don’t. We don’t care” (Mona [interview]).

I think it became an exaggeration. “Like we wanna know the truth”. It seriously lost its meaning. Because Future TV and [Saad] Hariri they over-did it. Seriously, it is overdone. Because I don’t want to know the truth any more. Really, I don’t. If it means stopping my life, and, khalas, I don’t want to know. (Mona [interview]).

Dani is of the same perception: “Even though the people who used to support it when it first started, we just think it is meaningless, it is just a political tool, and it has gone way out of context” (Dani [interview]).

## **6.8 Summing up: Lack of local ownership**

Through this analysis it becomes clear that the Lebanese are deeply divided in their opinions about the tribunal. The same divide regarding the support – or lack of support – for STL among the adherents of March 14 and March 8 was also found amongst the interviewees. However, it is interesting to note that a significant amount of the interviewees who would neither identify themselves with March 8 nor March 14, were nevertheless sceptical to the STL's mandate and intentions. These people are a generation of young Lebanese who denounce the country's entire political system and have no desire to part in it.

The lack of trust in own domestic systems seems resulted in lack of trust in international systems, and especially the STL as a fair and unbiased institution. The narrow mandate of the tribunal's jurisdiction is questioned, given the long history of the many unsolved assassinations in the country. The mandate is also widely interpreted as selective justice, which is perceived both as deeply unfair and as proof that the tribunal is politicized. Taking Lebanon's brutal history into consideration, it is understandable that the question is being raised of why the Security Council is spending efforts and money on this particular court if it doesn't serve their political interests.

In this context, the Security Council means the permanent member countries United States, Great Britain and France, which were the countries that drafted the Security Council resolutions regarding the establishment of the STL. As Nashabe illustrated, their interests might not be "love and security and Woodstock" (Nashabe, [interview]). Some interviewees pointed out "the double standard" held by the international community, especially with regards to the treatment of matters relating to Israel. There were no Security Council resolutions on accountability for more than the 1000 civilian deaths in the 2006 war, a year after the Hariri assassination.

Outlined above are some challenges for the legitimacy of the tribunal. Many interviewees conveyed a sentiment of no or little feelings of ownership to the



tribunal. Many don't feel the tribunal is about them or their society, and don't see the relevance of the STL. It became evident during the interviews that many civil society members didn't have accurate knowledge of the tribunal, even though the opinions they expressed against the tribunal were strongly worded and varied. One interviewee was for example certain that the tribunal's president had been changed at least five times<sup>20</sup>. Olga Kavran could confirm that many don't know much about the STL and that there is a genuine misunderstanding among some people. "I would argue that most people simply don't know [enough about the tribunal]. And once they realize things, they often change their opinion" (Kavran [interview]).

Even though Hazan (2010b) argues that there has been a shift in transitional justice mechanisms after September 11<sup>th</sup> 2001, he concludes that transitional justice processes are useful methods for managing violence in specific conflicts. "But these mechanisms of justice are useful only as long as the local populations feel ownership" (Hazan 2010b:64). Hazan shows that it is important to pay attention to the priorities of populations affected by the violence. "Too often, unfortunately, the short term political and strategic interests of big powers, which often coincide with the views of governments in conflict zones, override local priorities and discard the question of ownership of a political process" (2010b:64-65). One can argue that this is the case with the STL, as many interviewees did not express sentiments of ownership towards the tribunal.

It is important to note that the lack of local support will not affect the work of the tribunal. As Olga Kavran points out "In implementation of its judicial mandate, popular support is not crucial. It is crucial for the understanding of the whole, but not in its success of fulfilling its mandate" [Kavran, [interview]].

This being said, there are many who are supportive of the tribunal in Lebanon

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<sup>20</sup> The President has been changed once, as Judge Cassesse retired for health reasons in 2011 and passed away a few months later.

and who don't have the same objections regarding the legitimacy. Even though the tribunal has a limited mandate, it is contributing in solving some of the assassinations in Lebanon and focuses on the importance of accountability. Former Judge Antonio Cassesse has emphasized that the idea of accountability is crucial for modern societies, where people who commit crimes will be brought to justice. (STL 2012f).

For May Chidiac the STL is about more than solving the Hariri-assassination and the attack on her life. She is certain that the tribunal will provide justice:

I am happy in one way or an other. (...) For those who are not here anymore, it is good. I feel somewhere that it is kind of revenge to me, to see that those who oppressed us, are being judged in front of the international public opinion. (...) Gebran, Pierre, Samir, George Hawi are not here anymore to witness this. Maybe I am a little bit luckier than they are, and I am witnessing what is happening, even though I paid a very big price. But at least it is a kind of satisfaction to me to see that the bad cannot always win over the good. Good is winning now, in one way or another, it is winning (Chidiac [interview]).

For Hanin Ghaddar the STL is important: "It [STL] has to happen, it has to be there because, for everyone in Lebanon and not in Lebanon, we need to know that if you do something like this, you will be tried" (Ghaddar [interview]).

Ghaddar thinks that the tribunal will be a very good thing for Lebanon if it goes well:

Because for the first time ever, we will be able to follow what is happening in the courtroom. Because in Lebanon, if someone is arrested, they go into a black hole. We know nothing about what happens to them. What happens in the courtroom is a mystery, what happens with the judges, the witnesses the whole thing. The whole process is a mystery. But, now for example, it is the first time we are seeing a very transparent courtroom. And if it all goes well, then, either it is convincing, and the Lebanese are convinced, or it is not convincing, then we are not convinced. And this is the end of the story (Ghaddar [interview]).

Pierre illustrates however this ambiguity when he says:

No matter what the judgment is, not all people will believe it. Because, even if [the verdict] is true or not true, a lot of people believe it, a lot of people don't. Which makes it not very trustworthy, even if it is trustworthy (Pierre [interview]).



## 7. Conclusion

Lebanon's historical context provides a grim record of political assassinations followed by impunity. The assassinations did not stop when the Lebanese Civil War ended. The general amnesty law was adopted by the Parliament after the Lebanese Civil War and enabled militia leaders to transform themselves into politicians, who naturally had no desire to redress the atrocities and crimes committed during the war. Syria's hegemony over Lebanon in the post-civil war era had also no interest in the Lebanese to implement justice to reconcile. Because of this Lebanon did not undertake any transitional justice approaches, such as trials or truth commissions, in dealing in with the aftermath of war.

It is also important to bear in mind that the Lebanese Civil War ended not long before the Cold War came to an end. As shown, the concept of transitional justice and the way the international community responds to grave human rights abuses and calls for accountability has evolved significantly since the early 1990's. Aside from the Tokyo and Nuremberg trials after WWII, the first international tribunals responding to vast atrocities and grave human rights abuses were established in the 1990's, starting with the ICTY and ICTR. Other international and mixed tribunals followed rapidly the next two decades, such as The Extraordinary Chambers in the Courts of Cambodia and the Special Court of Sierra Leone. Transitional justice is more than an academic subject, it has become an active domain of policy, practiced by the United Nations and supported by various organizations and financial institutions (Fisher 2011:406, Sriram 2009:116). There are reasons to believe that if the civil war in Lebanon had happened or ended at a later point, there would have been a different aftermath or reaction from the international community, considering the recent developments.

Even though the Special Tribunal for Lebanon is set to hold the perpetrators accountable, it has nothing to do with the Lebanese Civil War. The STL is also

difficult to locate within transitional justice paradigm because of the narrowness of its mandate, which is the narrowest mandate of any hybrid or international tribunal up to date. The STL is the first international tribunal to deal with the crimes of terrorism. It is also the first and so far only tribunal to exercise jurisdiction only over domestic crimes, applying domestic, Lebanese law. This feature makes it the first international tribunal to allow trials in absentia, which implies that a suspected can be convicted without being present in court.

It can be more fruitful to look at the STL as the natural follow-up of the work of the UNHCR. The UNHCR's work had a limited mandate in investigating the Hariri-assassination and later the other assassinations, and requested a judicial follow-up. Because of the developments within international justice the last two decades, it was possible to create The Special Tribunal for Lebanon as a hybrid tribunal. Experiences from other hybrid and international tribunals were taken into account upon its creation.

By applying "the highest standards of international justice" the STL is set to deal with assassinations that also killed and injured many civilians. It approaches a serious problematic culture of unpunished assassinations in Lebanon. The trials will have transparent procedures and will be under the scrutiny of the international community. It could therefore send a signal to the perpetrators that there can be, and indeed are, international reactions to such crimes, and in this way contribute to put a halt to the many assassinations. However, the political assassinations in Lebanon have continued after the peak in 2005. Only three days after the tribunal was officially established on June 10<sup>th</sup> 2007, Walid Eido, a Member of Parliament was killed by a car bomb. Eido's assassination and the ones that followed throughout 2007 and 2008 cast serious doubts over the tribunal's abilities to battle impunity in Lebanon.

The establishment of the STL has so far not lead to a wider debate about accountability in Lebanon. Instead, the political rhetoric is focused on anti and

pro STL among the political coalitions March 8 and March 14 respectively. The same divide regarding the support – or lack of support – for STL among the adherents of March 14 and March 8 was also found amongst the interviewees in this research.

Among the interviewees there was however a significant group of young Lebanese who would neither identify themselves with March 8 nor March 14. This group represents a generation of young Lebanese who denounce the country's entire political system and have no desire to take part in it. They are nevertheless sceptical to the STL's mandate and intentions.

Based on the definition presented in the introduction, a legitimate tribunal should be able to be defended with logic or justification. Whether they supported March 8 alliance or distanced themselves from politics, many interviewees found it difficult to defend the establishment of the Special Tribunal for Lebanon with logic or justification. The narrow mandate is identified as a major challenge for the legitimacy of the tribunal. First of all it is perceived as deeply unfair, taken the Lebanese history into account, that the international community spends all this money and efforts on what is understood as a trial for one man. Secondly, the narrow mandate fuels suspicions that there were political interests behind the creation of the STL. The fact that the Security Council had to act under chapter VII in the UN Charter in order to establish the tribunal, and that it was the United States and France, countries that also have political interests in the region, which sponsored the resolutions, underpins this suspicion of politicization.

Even though the modest amount of interviews cannot be used for generalization, there seems to be a connection between lack of trust in Lebanon's political system and lack of trust in the STL and the UN's intentions in general. Interviewees all agreed that Lebanon had a very corrupted society and corrupted leaders. Some interviewees also considered the UN to have its own agenda and corruption, and that several of the judges at STL are bribed. The problematic political situation seems to have led many into resignation

and distrust in any authority or institution, the United Nations included.

Another explanation for the distrust in the intentions of the UN can have a connection to the lukewarm commitment or follow-up by the UN towards Lebanon regarding claims of accountability. The lack of action from the UN during the 33 day long war in 2006, which did also not lead to any claims of accountability, is highly at odds with the decision from 2007 to establish the tribunal because it “was vital for Lebanon, for justice and the region” as the UK representative said in the meeting over SC Resolution 1757 (UN 2007b). As Mughraby (2012 [interview]) pointed out, a sincere decision to contribute to the rule of law and to stop impunity in Lebanon would have to involve a more comprehensive approach, by for example helping Lebanon’s justice sector to reform. The Lebanese judicial system and culture is yet to change. Considering Mughraby’s statement “The signal is: Hariri was our friend. So if you kill him it is not okay. But if you kill someone else it is okay” (Mughraby [interview]), shows both how the effect of stopping the impunity is very limited because of this selective justice, as well as it demonstrates a double standard held by the international community.

The “double standard”, especially held by the United States, is evident in that the claim for accountability and human rights in general is very selective. Interviewees pointed to the conduct in Iraq and the Guantanamo as examples of double standards as there is no international action taken against the human rights abuses there. Another example is the UN’s lack of action towards Lebanon’s neighbour Israel. Israel has invaded Lebanon twice and caused substantial damage to the country during the war in 2006. Israel is yet to be held accountable in any international tribunal. The violent experiences with Israel can also explain why many of the interviewees suspect Israel of being behind the Hariri-assassination. Many interviewees do not expect the investigators to even consider Israel as a suspect, which provokes further feelings of distrust and of double standards.



As a result of the legitimacy challenges, many interviewees conveyed little or no feelings of ownership to the tribunal. The STL is simply perceived irrelevant for them, and its existence cannot be defended with logic justification. This is however not the full picture. Other Lebanese perceive the legitimacy of the STL very differently. The tribunal is dealing with some serious assassinations on political and public figures that the perpetrators probably expected to commit without repercussions. As Judge Baragwanath said in an interview “Impunity is at odds with the rule of law” (STL 2012g) and impunity creates unstable societies where also civilian lives get lost, both in the assassinations, but also in the instability that can follow such attacks. To the Lebanese that look at the STL in this way, it is both logical and just that there is an international tribunal dealing with some of these challenges Lebanon face. Many display a sense of relief that there is international action taken when their authorities have been unable to do so.

Seven years after the Hariri assassinations and the other assassinations, and three years after the STL opened in The Hague, the questions of who committed the crimes and their motives are still to be answered. International justice takes time, and trial proceedings are yet to begin. In the meantime much has happened, and most likely will continue to happen on the ground in Lebanon, which can make the tribunal more or less relevant.

Further research, perhaps during the trial proceedings, could look into how information about the tribunal is spread in Lebanon and where the Lebanese seek information about the trials, given that there is spread much inaccurate information by leaders with their own political agenda on both sides.

By investigating Lebanese perceptions of the tribunal through interviews with public figures and young Lebanese, six major challenges facing the legitimacy of the STL has been identified: The perception of selective justice, general mistrust in institutions, accusations of politicization, the problematic relationship with Israel, the double standards of the international community

and the perceived irrelevance of the tribunals work and mandate. These challenges are not crucial for the STL to implement its judicial mandate as the decisions in the courtroom do not depend on popular support. However, the challenges are crucial for the tribunal's ability to act as a credible signal and as a symbol of the new paradigm of international demands for accountability.

# Reference

- Aboulmona, Rima S and Dana Khraiche (2011). 'PM's office pays Lebanon's STL dues.' November 30<sup>th</sup>. *The Daily Star Lebanon*.  
<http://www.dailystar.com.lb/News/Politics/2011/Nov-30/155617-lebanon-to-fund-stl-source.ashx#ixzz1uB7LVzZw> (accessed 05.05.12)
- Amnesty International (2006). *Israel/Lebanon: Out of all proportion - civilians bear the brunt of the war* Report November 2006.  
Available at <http://amnesty.org/en/library/info/MDE02/033/2006/en> (Accessed 19.04.12)
- Barada, Maha (2010) 'Nashrallah reveals Hariri murder 'evidence'.' *BBC*. August 9<sup>th</sup>  
<http://www.bbc.co.uk/news/world-middle-east-10922045> (accessed 30.04.2012)
- Barak, Oren (2007). "Don't Mention the War?" *The Politics of Remembrance and Forgetfulness in Postwar Lebanon*. Middle East Journal. Volume 61, No. 1, Winter 2007. Middle East Institute.
- BBC (2002). *US expands 'axis of evil*. May 6<sup>th</sup>.  
<http://news.bbc.co.uk/2/hi/1971852.stm> (accessed 03.05.12)
- BBC (2005). *Amnesty for Lebanese ex-warlord*. Article. July 18<sup>th</sup>  
[http://news.bbc.co.uk/2/hi/middle\\_east/4693091.stm](http://news.bbc.co.uk/2/hi/middle_east/4693091.stm) (Accessed 09.04.12)
- Becker, David (2005). *Reconciliation – The Wrong Track to Peace?* in *Intervention* 3 (3) 2005. pp. 167-179. Intervention Foundation.
- Blanford, Nicholas (2006). *Killing Mr. Lebanon. The assassination of Rafik Hariri and its impact on the Middle East*. I.B. Tauris & Co Ltd. New York.
- Bryman, Alan (2008). *Social Research Methods*. Oxford University Press, New York.
- Cerone, John P (2009). 'U.S. Attitudes toward International Criminal Courts and Tribunals' Chapter 6 in *The Sword and the Scales. The United States and International Courts and Tribunals*. Edited by Cesare P.R Romano. Cambridge University Press. New York. Printed In USA
- Chambliss, Daniel F. and Russell K. Schutt (2010). *Making Sense of the Social World. Methods of Investigation*. Third Edition. Pine Forge Press, an Imprint of SAGE Publications, Inc. California.
- Corbin, Juliet and Strauss, Anselm (2008). *Basics of Qualitative Research. Techniques and Procedures for Developing Grounded Theory*. Sage Publications, California, USA.
- Doyle, Michael W (1997). *Ways of War and Peace*. W.W. Norton & Company. New York.

El-Basha, Thomas (2012) 'Geagea says escapes assassination attempt' *The Daily Star Lebanon* April 4th. <http://www.dailystar.com.lb/News/Politics/2012/Apr-04/169214-sniper-fire-at-maraab-says-lebanese-forces.ashx#ixzz1tdl3Madj> (Accessed 05.04.12)

El-Basha, Thomas and Willow Osgood (2012). 'STL hopes to conclude work within three years: Youssef'. *The Daily Star* February 6th  
<http://www.dailystar.com.lb/News/Politics/2012/Feb-06/162343-stl-hopes-to-conclude-work-within-3-years-youssef.ashx#ixzz1uCMHtGeG> (Accessed 05.04.12)

Fischer, Martina (2011). *Transitional Justice and Reconciliation: Theory and Practice*. The Berghof Handbook II. Berghof Conflict Research. Available at:  
[http://ancien.operationspaix.net/IMG/pdf/BERGHOF\\_TransitionalJusticsandReconciliation\\_Theory\\_20andPractice\\_01-07-2011\\_.pdf](http://ancien.operationspaix.net/IMG/pdf/BERGHOF_TransitionalJusticsandReconciliation_Theory_20andPractice_01-07-2011_.pdf) (Downloaded 06.05.12)

Follath, Erich (2009). 'Breakthrough in Tribunal Investigation. New Evidence Points to Hezbollah in Hariri Murder', *Der Spiegel* 23. May 2009.  
<http://www.spiegel.de/international/world/0,1518,626412,00.html>

George, Alexander L. and Andrew Bennett (2005). *Case Studies and Theory Development in the Social Sciences*. MIT Press, Cambridge, Massachusetts

Gerring, John (2007). *Case Study Research. Principles and Practices*. Cambridge University Press, printed in the United States of America

Haaretz (2011). *Hezbollah's Nasrallah: Hariri tribunal dominated by U.S., Israel* July 2th.  
<http://www.haaretz.com/news/diplomacy-defense/hezbollah-s-nasrallah-hariri-tribunal-dominated-by-u-s-israel-1.370888> (Accessed 30.04.2012)

Harris, William W (2006). *The New Face of Lebanon. History's Revenge*. Markus Wiener Publishers. Princeton.

Haugbolle, Sune (2005). *Public and Private Memory of the Lebanese Civil War*. Comparative Studies of South Asia, Africa and the Middle East, Volume 25, Number 1, 2005, pp. 191-203 (Article). Published by Duke University Press.

Haugbolle, Sune (2009). 'Imprisonment, truth telling and historical memory in Syria' (p 111- 126) In *The Politics of Violence, Truth and Reconciliation in the Arab Middle East*. Edited by Sune Haugbolle and Anders Hastrup. Routledge. Oxon, UK

Haugbolle, Sune (2010). *War and Memory in Lebanon*. Cambridge University Press.

Hayner, Pricilla B. (2011). *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions*. Second edition. Routledge, New York.

Hazan, Pierre. (2010a). *Judging War, Judging History. Behind Truth and Reconciliation*. Stanford University Press. Stanford, California.

- Hazan, Pierre. (2010b). 'Transitional Justice After September 11: A New Rapport with Evil'. Chapter 3 in *Localizing Transitional Justice. Interventions and Priorities After Mass Violence*. Edited by Rosalind Shaw and Lars Waldrof, with Pierre Hazan. Stanford University Press, California.
- Holt, Maria (2010). "Unexamined Lives: A Method of Women, Violence and War in Lebanon. Chapter 14 (page 197-210). In the book *Participatory Research Methodologies. Development and Post-Disaster/Conflict Reconstruction*. Edited by Alpaslan Özerdem and Richard Bowd. Ashgate. Farnham, England. 2010.
- Hoyle, Rick H, Charles M. Judd and Monica J. Harris (2002). *Research Methods in Social Relations*. Wadsworth Publishing Company. Fort Worth, Tex. : Wadsworth
- International Criminal Court, the (ICC) (2012). *About the court* (Website) <http://www.icc-cpi.int/Menus/ICC/About+the+Court/> (Accessed 14.03.12)
- ICTJ – The International Center for Transitional Justice (2012) *What is transitional justice?* (website) <http://ictj.org/about/transitional-justice> (Accessed 09.01.2012)
- Iskandar, Marwan (2006). *Rafik Hariri and the fate of Lebanon*. Saqi Books. (London – San Francisco) Printed in Lebanon by Chemaly & Chemaly
- Kaminiski, Marek M, Nalepa, Monica and O’Niell Barry (2006). *Normative and Strategic Aspects of Transitional Justice*. Journal of Conflict Resolution. Journal of the Peace Science Society 50 (3) 2006. pp. 295-302. Sage Publications Ltd.
- Karon, Tony (2011). 'Hizballah Brings Down Lebanons Government'. *Time Magazine*. January 12. <http://www.time.com/time/world/article/0,8599,2042003,00.html> (Accessed 05.05.2012)
- Kessler, Oren (2011). 'Nashrallah implies Israel behind Hariri hit'. *The Jerusalem Post*. July 2 2011 <http://www.jpost.com/MiddleEast/Article.aspx?id=227589> (Accessed 30.04.2012)
- King, Gary; Kehhane, Robert O. & Verba, Sidney (1994). "Ch. 1: The Science in Social Science" in *Designing Social Inquiry. Scientific Inference in Qualitative Research* 1994. p. 3-33. Princeton University Press
- Knio, Karim (2008). *Is Political Stability Sustainable in Post-'Cedar Revolution' Lebanon?* (Article) *Mediterranean Politics*, 13:3, 445-451. Taylor and Francis.
- Knudsen, Are (2005). *Precarious peacebuilding: Post-war Lebanon, 1990-2005*. CMI Working Paper. Chr. Michelsen Institute, Bergen, Norway.
- Knudsen, Are and Nasser Yassin (2007). *Political Violence in Post-Civil War Lebanon, 1989 – 2007*. CMI Working Paper. Chr. Michelsen Institute. Bergen, Norway.

- Knudsen, Are (2010). *Acquiescence to Assassinations in Post-Civil War Lebanon?* Mediterranean Politics, Volume 15, No. 1, 1-23, March 2010. Routledge.
- Kvale, Steinar (1997). *Det kvalitative Forskningsintervju*. Ad Notam, Gylendal AS. Norway.
- Le Touze, Dominique, Derrick Silove and Anthony Zwi (2005). *Can There be Healing without Justice? Lessons from the Commission for Reception, Truth and Reconciliation in East Timor*. In *Intervention* 3 (3) 2005. pp. 192 – 202. Intervention Foundation.
- Mugraby, Muhamad (2009). 'The Syndrome of one-time exceptions and the drive to establish the proposed Hariri-court'. Chapter 2 in Sune Haugbolle and Anders Hastrup (ed) *The Politics of Violence, Truth and Reconciliation in the Arab Middle East*. Edited by Sune Haugbolle and Anders Hastrup. Routledge. Oxon, UK. 2009.
- New Oxford American Dictionary (2005). Electronic dictionary on Apple Inc. Mac OS X. Oxford University Press.
- New York Times (2011). *Rafik Hariri*. Article 30.06.2011.  
[http://topics.nytimes.com/top/reference/timestopics/people/h/rafik\\_hariri/index.html](http://topics.nytimes.com/top/reference/timestopics/people/h/rafik_hariri/index.html)  
 1 (Accessed 09.04.12)
- Newman, Edward, Roland Paris and Oliver P. Richmond. (ed) (2009). *New Perspectives on Liberal Peacebuilding*. United Nations University Press. Printed in Hong Kong.
- Now Lebanon (2011). *Too Little Justice in Lebanon - Talking to Habib Nassar*. (Newspaper article) 24.01.2011. Available  
<http://www.nowlebanon.com/NewsArchiveDetails.aspx?ID=233530> (accessed 02.02.12)
- Raub, Lindsey (2009). *Positioning Hybrid Tribunals in International Criminal Justice*. New York University Journal of International Law and Politics. Summer 2009. Available at  
[http://www.law.nyu.edu/ecm\\_dlv1/groups/public/@nyu\\_law\\_website\\_journals\\_journal\\_of\\_international\\_law\\_and\\_politics/documents/documents/ecm\\_pro\\_064132.pdf](http://www.law.nyu.edu/ecm_dlv1/groups/public/@nyu_law_website_journals_journal_of_international_law_and_politics/documents/documents/ecm_pro_064132.pdf)  
 (Downloaded 05.03.2012)
- Rome Statute (1998). <http://untreaty.un.org/cod/icc/statute/rome.htm>
- Saadeh, Sofia (2007). *The Quest for Citizenship in Post Taef Lebanon*. Sade Publishers, Lebanon.
- Safa, Oussama (2006). *Lebanon Springs Forward*. Journal of Democracy, Volume 17. Number 1. January 2006, pp- 22-37 (Article). John Hopkins University Press.
- Salibi, Kamal (1988). *A House of Many Mansions. The history of Lebanon reconsidered*. I.B Tauris & Co Ltd. (London/New York) Reprinted in 2009. Printed in India by Thomson Press

Schiller, Norbert and Naji Zahar (ed) (2006). *28 Days That Changed Lebanon. 14/02/2005-14/03/2005*. Focus Mideast. Beirut, Lebanon.

Security Council Report (2009). *Lebanon Historical Chronology*.  
<http://www.securitycouncilreport.org/site/pp.aspx?c=glKWLeMTIsG&b=2733209&printmode=1>

Shaw, Roasalind and Lars Waldrof with Pierre Hazan (Ed.) (2010). *Localizing Transitional Justice. Intervention and Priorities After Mass Violence*. Stanford University Press. Stanford, California.

Sriram, Chandra Lekha (2009). "Transitional Justice and the Liberal Peace". Chapter 6. (p. 112 – 129) in Edward Newman, Roland Paris and Oliver P. Richmond's *New Perspectives on Liberal Peacebuilding*. United Nations Press

STL (2010a). *Rules of Procedure and Evidence. Explanatory Memorandum by the Tribunal's President*. As of 25 November 2010. STL, The Netherlands. Available at <http://www.stl-tsl.org/en/documents/rules-of-procedure-and-evidence/rules-of-procedure-and-evidence-explanatory-memorandum-by-the-tribunal-s-president-25-november-2010> (Accessed March 25 2012)

STL (2010b.) *President Cassese submits Annual Report on first anniversary of the Special Tribunal for Lebanon*. Press release, March 1<sup>st</sup> 2010. Available at <http://www.stl-tsl.org/en/media/press-releases/president-cassese-submits-annual-report-on-first-anniversary-of-the-special-tribunal-for-lebanon> (Accessed 28.03.2012)

STL (2010c). *Information Guide on Victim Participation in the Proceedings of The Special Tribunal for Lebanon*. Chambers – December 2010. Drafted by Jérôme de Hemptinne (Legal Officer) Published and printed by the Special Tribunal for Lebanon. Leidschendam, The Netherlands.

STL (2010d.) *Rules of Procedure and Evidence. Explanatory Memorandum by the Tribunal's President*. As of 25 November 2010. STL, The Netherlands. Available at <http://www.stl-tsl.org/en/documents/rules-of-procedure-and-evidence/rules-of-procedure-and-evidence-explanatory-memorandum-by-the-tribunal-s-president-25-november-2010> (Accessed March 25 2012)

STL (2011a). Press Release. *Media advisory - Appeals Chamber ruling (16th February 2011)* <http://www.stl-tsl.org/en/media/press-releases/media-advisory-on-the-appeals-chamber-ruling-16th-february-2011> (Accessed 31.03.2012)

STL (2011b). *Cases: Ayyash et al. (STL-11-01)* (Indictment June 10<sup>th</sup> 2011)  
<http://www.stl-tsl.org/en/the-cases/stl-11-01> (downloaded 01.05.12)

STL (2012a). *Timeline of events*. Website. <http://www.stl-tsl.org/en/about-the-stl/timeline-of-events> (Accessed 02.05.12)

- STL (2012b). *Structure of the STL: Chambers*. Webpage . <http://www.stl-tsl.org/en/about-the-stl/structure-of-the-stl/chambers> (Accessed 03.05.2012)
- STL (2012c). *Defence office* undated webpage: <http://www.stl-tsl.org/en/about-the-stl/structure-of-the-stl/defence/defence-office> (accessed 05.05.12)
- STL (2012d). *STL Decision to hold trials in absentia* 01.02.12  
<http://www.stl-tsl.org/en/the-cases/stl-11-01/main/filings/orders-and-decisions/trial-chamber/f0112>
- STL (2012e). Press release. *President temporarily suspends "criminal association" proceedings* 16.03.12. <http://www.stl-tsl.org/en/media/press-releases/16-03-2012-president-temporarily-suspends-criminal-association-proceedings> (Accessed 29.03.12)
- STL (2012f). (website) *What are the people of Lebanon to gain from the tribunal's success? (Interview with Antonio Cassese)*. <http://www.stl-tsl.org/en/ask-the-tribunal/what-are-the-people-of-lebanon-to-gain-from-the-tribunal-s-success> (Accessed 10.05.2012).
- STL (2012g). (website) *How can the STL contribute to the rule of law in Lebanon? (Interview with Judge Baragwanath)* <http://www.stl-tsl.org/en/ask-the-tribunal/how-can-the-stl-contribute-to-the-rule-of-law-in-lebanon>
- Thomas, Gary (2011). *How to do Your Case Study. A guide for students and researchers*. Sage Publications Ltd.
- UN (Undated/26 June 1945). *Charter of the United Nations*, Chapter VII: Action with respect to threats to the peace, breaches of the peace and acts of aggression. Available at <http://www.un.org/en/documents/charter/chapter7.shtml> (Accessed 28.03.212)
- UN (2004a). *The rule of law and transitional justice in conflict and post-conflict societies*. Report of the Secretary General Security Council. 23.08.2004. Available <http://daccess-ods.un.org/TMP/7336977.72026062.html> (Accessed 02.04.2012)
- UN (2004b). Resolution 1559 (2004) *Security Council declares support for free, fair presidential election in Lebanon; calls for withdrawal of foreign forces there*. Available at <http://www.un.org/News/Press/docs/2004/sc8181.doc.htm> (accessed 06.04.12)
- UN. 2005a. *Statement attributable to the Spokesman for the Secretary-General on the assassination of Rafik Hariri* 14.02.2005 Available at <http://www.un.org/sg/statements/?nid=1305> (Accessed 28.03.2012)
- UN (2005b.) Security Council meeting 5122 *Security Council condemns terrorist bombing that killed former Lebanese prime minister, calls on government to bring perpetrators to justice* <http://www.un.org/News/Press/docs/2005/sc8310.doc.htm> (Accessed 28.03.12)
- UN (2005c). *Report of the Fact-finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik*



*Hariri* (FitzGerald Report) 24.03.2005 available at <http://www.stl-tsl.org/en/documents/un-documents/un-fact-finding-mission/report-of-the-fact-finding-mission-to-lebanon> (Accessed 28.03.2012)

UN (2005d). *Report of the International Independent Investigation Commission Established Pursuant to Security Council Resolution 1595 (2005)*. (Ditlev Mehlis report) October 19, 2005. Available at <http://www.un.org/news/dh/docs/mehlisreport/> (Accessed 29.03.2012)

UN (2005e). *Security Council Resolution 1644*. Available at <http://www.un.org/News/Press/docs/2005/sc8587.doc.htm> (Accessed 28.03.2012)

UN (2006a). *Report of the Secretary-General on the establishment of a special tribunal for Lebanon* (15 November 2006) Available at <http://daccess-ods.un.org/TMP/9219406.24713898.html> (Accessed 10.05.2012)

UN (2006b). *Security Council Resolution 1664*. Available at <http://www.un.org/News/Press/docs/2006/sc8677.doc.htm> (Accessed 28.03.2012)

UN (2006c) *Secretary-General receives report on attack that killed observers at Khiam, Lebanon*. <http://www.un.org/News/Press/docs/2006/sgsm10666.doc.htm> (accessed 28.04.12) September 29 2006

UN (2007a). *Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon*. (Annexed to Security Council Resolution 1757, May 30<sup>th</sup> 2007) Available at <http://daccess-ods.un.org/TMP/6799467.80204773.html>

UN (2007b). *Resolution 1757 Security Council authorizes establishment of special tribunal to try suspects in assassination of Rafiq Hariri* Attached are the statutes of the tribunal <http://www.un.org/News/Press/docs/2007/sc9029.doc.htm>

Ventura, Manuel J. (2011). *Terrorism According to the STL's Interlocutory Decision on the Applicable Law - A Defining Moment or a Moment of Defining?* Journal of International Criminal Justice 9 (2011). Oxford University Press. Available at <http://jicj.oxfordjournals.org/content/9/5/1021.short?rss=1> (Accessed 01.04.2012)

Wierda, Marieke, Habib Nassar and Lynn Maalouf (2007). *Early Reflections on Local Perceptions, Legitimacy and Legacy of the Special Tribunal for Lebanon*. Journal of International Criminal Justice. Volume 5, Issue 5. Pp. 1065 – 1081. Oxford University Press.

Ya Libnan (2011). *STL's Bellemare decides not to seek a second term* December 15<sup>th</sup> <http://www.yalibnan.com/2011/12/15/stls-bellemare-decides-not-to-seek-a-second-term/> (accessed 05.05.12)

## Appendix I

### List of interviewees

#### Civil society

<b>Name*</b>	<b>Age/gender</b>	<b>Religious background</b>	<b>Occupation</b>	<b>Date of interview</b>
1) Dani	20 years/m	Christian family	Student	11.02.2012
2) George	31 years/m	Christian family	Music teacher	13.02.2012
3) Adel	29 years/m	Sunni family	Writer	10.02.2012
4) Pierre	25 years/m	Catholic family	Engineer	13.02.2012
5) Sarah	26 years/f	Shiite family	Teacher	12.02.2012
6) Bob	21 years/m	Druze family	Student	16.02.2012
7) Huda	28 years/f	Shiite family	Housewife	16.02.2012
8) Mona	25 years/f	Christian Maronite	Business-owner	09.02.2012

\*A substitute name is used due to anonymization.

#### Public Figures

<b>Name</b>	<b>Position</b>	<b>Date of interview</b>
1) May Chidiac	Former TV-journalist and public figure. She survived an assassination attempt in 2005, likely to be connected	18.02.2012
2) Hanin Ghaddar	Editor, online newspaper Now Lebanon Now Lebanon is pro-STL	17.02.2012
3) Jamal Jarrah	Member of Parliament for Future Movement. Future Movement is Rafik Hariri's political party	15.02.2012
4) Muhamad Mughraby	Lawyer Outspoken critic of STL	09.02.2012
5) Omar Nashabe	Editor of the justice section, Al-Akhbar newspaper. Also professor in criminal justice and an outspoken critic of STL	17.02.2012
6) Olga Kavran	Chief, STL Outreach and legacy section, Beirut	08.02.2012

## Appendix II

### Consent form - interview

Working title: The STL and its impact on the political and civil society in Lebanon

Researcher: Tone Hafnor, Master student at the Peace and Conflict programme at the University of Oslo, Norway.

Supervisor: Kari Karamé from the Norwegian Institute of International Affairs.

Purpose of the study: Reaching an understanding of the consequences the establishment of the Special Tribunal for Lebanon has had for the political and civil society in Lebanon.

Confidentiality: All recorded and written data from the interview, with the exception of that explicitly published in the final thesis, will be deleted when the master thesis is completed in June 2012. You can also choose to be anonymous.

Withdrawal: Participation is voluntary with no costs or payment. You can cancel the interview for any reason, at any time, without consequences. You can avoid answering some of the questions if you feel uncomfortable with them.

Express of gratitude: Thank you so much for your time and valuable insight. If you have any questions about the research you can contact Tone on email [tone.hafnor@gmail.com](mailto:tone.hafnor@gmail.com) or phone + 47 408 43 743. If you want to receive a summary of the findings when the research is finished, or a copy of the thesis, please notify.

Agreement: I have read the information above. I understand that my participation is voluntary and that I am free to withdraw my consent at any time, for any reason, without consequences. By giving my signature, I certify that I am willing to participate in this research project.

#### Choose one option:

☐

I hereby give consent for my name and my viewpoints to be included in the final research materials.

☐

I prefer to be anonymous in the final research product. My name or other identifiable information will not be cited in the thesis.

Date & signature of interviewee: \_\_\_\_\_

Date & signature of researcher: \_\_\_\_\_

## Appendix III

### Interview guide – Members of the civil society

*Topics in bold, all questions are tentative.*

**Introduction of the interviewee:** (We skip this if you want to be anonymous)

Could you please tell me a bit about yourself and your family background?

#### **The assassination & Rafik Hariri**

Where were you when you heard the news that Rafik Hariri had died? What did you think/feel?

Why do you think someone wanted to kill him?

Who do you (personally) think killed Hariri? What is the impression of most Lebanese?

#### **The demonstrations**

Did you participate in the demonstrations held on Martyrs Square after Hariri was killed?

On March 8<sup>th</sup> or 14<sup>th</sup>?

Did you at the time think Syria was behind the killing of Hariri? What do you think now?

The demonstrations that turned into the March 14th coalition demanded that there should be an international, independent investigation of the murder of Hariri. Did you want this as well? If yes, did the STL turn out to be what you hoped for? Why/why not?

#### **The STL and its legitimacy**

Do you think most Lebanese are happy there is an international tribunal and trial for Hariri? / Do you feel in that way too?

What is your impression of the STL so far? Do you trust its work/ Do you have confidence in the tribunal?

Do you think the STL is politicized?

How did people react when the STL issued the arrest of Hezbollah members in during the summer of 2011? Do you think some people are disappointed Syria is no longer accused?

Do you feel Lebanon is more unstable now, because of the STL and the disagreements over it?

What could have been done differently, in your opinion, if the investigation and trial should have been more “successful”? (i.e. investigating Israel etc)

Do you think Lebanon would be better off without the tribunal? (eg. more stable, more fair) “Look another way if the truth is to uncomfortable)

Will STL bring “justice at the peace of prize”? Who will benefit from knowing the truth?

#### **The STL as way of achieving “justice” and possible reconciliation**

Do you think it is fair that Hariri gets a trial, whilst all the people that died in the civil war do not get a trial?

Could you consider the STL being the start of a new judicial culture in Lebanon, where criminals no longer will be able to kill without consequences?

Do you think you, or anyone in your family, would like there to be trials and apologies (“reconciliation”) for the wrongdoings happened during the wars from 1975-90? Why hasn’t the establishment of the STL lead to a wider debate on this?

Some thoughts about the political system. Is this the reason nobody talks about the civil war?

Do you have anything else you want to add?